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International Court of Justice

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Closing Arguments

for

Alfred Rosenberg

delivered before the

International Military Tribunal at Nuernberg

in the trial of

Hermann Goering and others

by

Alfred Thoma, DD.L.

District Court Senior Judge.

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e documentary film which was shown in this room and which was supposed illustrate the "Rise and Fall of National Socialism" begins with a ech delivered by Rosenberg concerning the development of the Party up the taking over of power. He also describes the Munich insurrection and says that the morning of 9 November 1923 he saw police cars with machine-guns assembling in e Ludwigstrasse in Munich and he knew that the March to the Feldherrnhalle was minent. Nevertheless he marched in the first lines. Today, also, my client takes e same position in face of the indictment formulated by the prosecutors of the Unit ions. He does not want to be pictured as though nobody paid any attention to his ks, his speeches and his publications. Even today he does not want to appear another person than he was once before, as a fighter for Germany's strong position the world, namely a German Reich in which national freedom should be linked to cial justice.

II.

War of Aggression against the Soviet Union

senberg is a German born in the Baltic provinces (Deutsch-Balte) who learnt speak Russian as a young boy, passed his examination in Moscow after the Technical llege in Riga moved to Moscow during the 1st world war, took an interest in ssian literature and art, had Russian friends, and was puzzled by the fact that the ssian nation, defined by Dostojewsky as "the nation with God in its heart" was ercome by the spirit of materialistic Marxism and he considered it inconceivable l unjust that the right of self determination had often been promised indeed but er voluntarily granted to many nations of Eastern Europe which had been conquered Tsarism as late as the 19th century. Rosenberg became convinced that the Bolshev olution was not directed against certain temporary political phenomena only but inst the whole national tradition,

against the religious faith and against the old rural foundations of the Eastern European nations and generally against the idea of pers property. At the End of 1918 he came to Germany and saw the danger c a Bolshevistic revolution in Germany too, he saw the whole spiritual and material civilization of the occident endangered and believed tc have found his life-work in the struggle against this danger as a follower of Adolf Hitler. It was a p o l i t i c a l struggle against fanatic and well-organized opponents who disposed over inte national resources and international backing and who acted according the principle: "Hit the Fascists wherever you can." But as little a one can deduce from the latter slogan that the Soviets entertained, intentions of military aggression against Fascist Italy, as little can say that the struggle of the National-Socialists against Bolsch vism meant a preparation for a war of aggression agains the USSR. Tc defendant Rosenberg a military conflict with the Soviet Union, espe ially a war of aggression against the latter, seemed as likely or a unlikely as to any German or foreign politician who had read the bc Mein Kampf. It is not right to maintain that he was initiated in so way in plans of aggression against the Soviet Union; he rather publ advocated proper relations with Moscow (Doc.Re 7b P.147). Rosenberg never wanted a military intervention, however, he f e a r e d in t the entry of the Red Army into the border states, then into Germany When in August 1939 Rosenberg learnt about the conclusion of the No Aggression Pact between the German Reich and the Soviet Union- he w aslittle informed about the preliminary discussions as he was about the other foreign political measures taken by the Fuehrer- he might have gone to see the Fuehrer and protested against it. He did n o do it and he did not object to it with a single word which the witn Goering confirmed as being a statement of Hitler's.

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As a witness Rosenberg described (Prot. of 16 April 1946.Page 7894) that he was then suddenly called to Hitler at the beginning of April 1941 who told him that he considered a military clash with the Soviet Union as inevitable. Hitler offered two reasons for it:

1) The military occupation of Rumanian territory, namely Bessarabia and North-Bukowina.

2) The tremendous increase of the Red Armies along the line of demarcation a on Soviet-Russian territory in general which had been going on for a long time. - These facts were so striking, he said, that he had already issued the appropriate military and other orders and that he would appoint Rosenberg in some way as a political advisor. As he further states as a witness, Rosenberg found himself confronted with an accomplished fact and even the sole attempt to talk about it was cut short by the Fuehrer with the remark that the order had been issued and that hardly anything could be changed in this matter. Th upon Rosenberg called some of his closest collaborators together because did not know whether the military events would take place very soon or later on, and made also some plans made concerning the treatment of the politi-cal problems. On 20 April 1941, Rosenberg received from Hitler the prelimina order to establish a central office to deal with questions concerning the Ea and to contact the competent highest Reich authorities with respect to these matters (Doc. No. 865-PS, U.S.A. - 143).

If this statement made by Rosenberg in itself is not sufficient to refute the assertion made by the prosecution according to which Rosenberg is "personally responsible for the planning and execution of the war of aggressi against Russia" (Brudno, on 9 January 1946, page 2278 of the protocol), and was aware of the "aggressive, predatory, character of the imminent war" (Rudenko, on 17 April 1946, Page 8016 of the protocol)

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if above all one does not want to admit that Rosenberg was convinced of an imminent aggressive war waged by the Soviet Union against Germany, I would like to bring up four more points in order to prove the correctness of the statements made by the defendant.

1) ROSENBERG was not called to the wellknown conference at the Reich Chancellery on 10 November 1937("Hossbach Document" Doc.No.386-PS, USA-25) when Hitler disclosed for the first time his intentions of waging war; this was at the time when Rosenberg still had political influence or at least seemed to have it. If ever, he should have played the part of the intimate political instigator then.

2) LAMMERS in the capacity of a witness stated before this Tribunal that Hitler took all important decisions all by himself, thus also the decision concerning the war against Russia (Prot.Page 7363).

3) Upon my question about ROSENBERG's influence with respect to Hitler's decisions concerning foreign policy, Goering replied before this Tribunal on 16 March 1946: "I think that after the accession to power the Fuehrer did not consult the Office of Foreign Affairs of the Party a single time about questions concerning the foreign policy and that it was created only for centrally taking care of certain questions concerning the foreign polic which came up within the party. As far as I know ROSENBERG was certainly not consulted about political decisions after the accession to power." This was also confirmed by the witness NEURATH on 26 June 1946.

As 4th argument I would further like to refer to the "Brief report concerning the activity of the Office of Foreign Affairs of the NSDAP." (Doc.No.003-PS, USA-603). Brief mention is made in it of the "near East" in such a harmless manner, that no word has to be said about it. Also in the confidential reports 004-PS and 00 -PS nothing is said about any preparations against the Soviet Union.

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III.

Administration in the East.

It would be too easy, too superficial and therefore unjust a proceedure if on would say: 1) The Eastern territories were occupied in a war of aggression therefore anything the German administration has done there was criminal;

2) in his capacity of Reich Minister for the occupied Eastern territories ROSENBERG was the responsible minister, therefore he must be punished for all crimes which have occured there, at least for what happened within the scope of the jurisdiction and authority of the administrative bodies. I will have demonstrate that this conception is not correct for legal and factual reason

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1. General.

Rosenberg was the organizer and the highest authority ofthe administration in the East. On 17 July 1941 he was appointed as Reich Minister for the occupied Eastern territories. According to instructions he performed already before that time preparatory work on questions concerning East-Europe by contacting the Reich agencies concerned (Doc. No. 1039-PS, USA-146). He planned set up his office for dealing centrally with questions concerning Eastern Euro (Doc.No.1024-PS, USA-278). He had the provisional instructions for the Reich Commissioners drawn up (Doc.No.1030-PS, USA-144), he delivered the pro ram spe off 20 June 1941 (Doc.No.1058-PS USA-14) and above all he took part in the Fuehrer Conference of 16 July 1941 (L-221,USA 317).

In the presence of Rosenberg, Lammers, Keitel, and Bormann, Hitler said at that time that the real aims of the war against Russia should not be made known to the whole world, those present should understand clearly that we will never with-draw from the new Eastern territories, whatever offers any oppositi will be exterminated, never again must a military power develop west of the Ur nobody but a German shall ever wear a weapon. Hitler proclaimed the subjection and the exploitation of the Eastern territories and in making these statements he was in opposition to what Rosenberg told him before - without being contrad ted by Hitler - concerning his plans for the East.

Thus Hitler had probably a program of enslavement and exploitation.

Nothing is so natural and nothing is easier than to say: before Rosenberg took over his Ministry alreay he knew Hitler's aims for the East namely 1 to rule it, 2) to administrate it, 3) to exploit it, therefore he is not only an accomplice in a crime of conspiracy against peace, he is also jointly responsible for the

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crimes against humanity perpetrated in the Eastern territories, since Rosenber held complete power, the highest authority in the East.

I shall deal later de jure and de facto with the question of Rosenberg's a matic responsibility in his capacity of supreme Chief of the Eastern territori First I would like to consider the question of his individual responsibility. could refer to two reasons: a) because he allegedly participated in the prepa tion of the war of aggression against the Soviet Union; I have stated already that this assertion is not correct. Rosenberg has neither ideologically nor actually participated in the preparations of the war of aggression; b) becaus he supported Hitler's plan of conquest by making plans, delivering speeches, ganizing the administration.- When a minister or a general, following the inst tions of the chief of State, elaborates plans or takes preparatory measures o organizational nature for events which might happen later, this activity cann be considered as criminal even when thereby the interests of other countries are affected and even when the plans, preparations and measures are intended for war. Only when the minister or general in question directs his activity towards things which have to be considered as criminal according to sound com sense and international sense of decency and justice,can he be held individual responsible. Rosenberg hascontinuously proved in words and deeds that the tra- ditional conceptions of right are his conceptions also and that he is willing to stand up for them. His position was particularly difficult indeed since his supreme chief finally moved beyond the limits in his ideas, aims and inte and since other strong forces also like Bormann, Himmler and Gauleiter Koch w involved which prevented and sabotaged Rosenberg's good and fair intentions. Thus we witness

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the strange spectacle of a minister who governs but who partly cannot understand, partly cannot approve, partly does not know at all, the intentions of the Chief of State, and on the other hand that of a chief of State who appoints a minister to take office who is certainly an old and loyal political fellow-combatant but with whom he has no spiritual contact whatsoever anymore. It would be wrong to judge without further examination such constellations according to the democratic conceptions of the responsibility of a minister. Rosenberg could not simply resign, but he also felt inwardly the duty of fighting for the opinion which appeared to him as being right and decent.

In his speech of 20 June 1941 ROSENBERG says that it is the duty of the Germans to consider that Germany should not have to fight every 25 years for her holdings in the East.

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He by no means desires the extermination of the Slavs, but the advancement of all the nations of Eastern Europe, and the advancement not the annihilation of their national independence. He demanded (Doc. Nr. 1058-PS, USA-147), "friendly sentiments" towards the Ukranians, a guarantee of "national and cultural existence" for the Caucasians; he emphasized, that even with a war on, we were not enemies of the Russian people", whose great achievements we fully recognize. He advocated "the national right of self-determination of the people" - one of first points of the whole Soviet revolution. This was his idea, tenaciously defended till the end. The speech in question also contains the passage, of which the prosecution accuses him in particular, that the feeding of the German people during these years will be placed at the top of German demands in the East, and that the southern territories and North Caucasus would have to make up the balance in feeding the German people. Then, ROSENBERG continues literally: "We do not see at all why we should be compelled to feed the Russian people also from these surplus regions. We know, that this is a bitter necessity which lies beyond any sentiment. Without a doubt an extensive evacuation will be necessary, and there are very hard years ahead for the Russians. To what extent industries are to be kept up there, is a question reserved for future decision. This passage comes quite suddenly and all by itself in the long speech. Once feels distinctly that it has been squeezed in, it is not ROSENBERG's voice: R O S E N B E R G d o e s n o t p r o c l a i m h e r e a p r o g r a m o f h i s o w n, b u t o n l y s t a t e s f a c t s w h i c h l i e b e y o n d h i s w i l l. In the first directives of the East ministry (Doc. Nr. 1056-PS, USA-605) the feeding of the population is shown to be especially urgent, as well as its supplying with all medical necessities,

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On the contrary, the true Rosenberg em rges in the conference of 16 July 1941, when in response to HITLER'S plans, he called attention to the university of Kiew, and to the independence and cultural advancement of the Ukraine, and when he took stand against the full power of the police and above all against the appointment of Gauleiter Erich KOCH in the Ukraine. (Doc.No.L. 221)

One will say: What is the use of opposition and protests, what is the use of secret reservations and of feigned agreement with HITLER'S intentions, ROSENBERG did c o o p e r a t e all the same. Therefore he is responsible too. Later on, I will outline in detail, how and to what extent ROSENBERG did adhere to the policy in the East, what things he did n o t do, and how he opposed them, what he planned and desired himself, in order to defend him against the grave charge of being responsible for the alleged exploitation and enslavement of the East. Here, I would like to point out the following: It was in no way a hopeless task to begin by accepting even HITLER'S most passionate statements without contradiction in the hope and with the intention of attaining nevertheless a contrary result later on. In opposition to HITLER'S statement, which said that: "No other than a German may ever wear weapons in the East", it was not long, for example before, on ROSENBERG'S recommandation, legions of volunteers were formed from the peoples of the East, and in opposition to HITLER, an edict of tolerance was issued at the end of 1941 for the churches of the East.(Doc. No. 1517-PS.)

If, at first, ROSENBERG could achieve nothing for the autonomy of the Eastern nations, he still adhered to his plans for the future in this respect too. First he took care of the urgent agrarian question. An agrarian order was drawn up, which it was possible to present to the Fuehrer on 15 February 1942, and which was authorized by him in its unadulterated form. I t w a s n o t a n i n s t r u m e n t o f e x p l o i t a t i o n , but an act of liberal formation of the agrarian constitution

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in the midst of the most terrible of all wars, Right in the middle of the war the eastern countries not only received a new agrarian constitution but also agricultural machines. The witness DENCKER, in his affidavit, has born witness to the following deliveries to the occupied Soviet territories including the former border states:

	Number of Pieces	Value in Reich Marks
Plough tractors, 40-50 HP	about 7,000	about 45,000,000.--
Thrashing machines	about 5,000	about 20,000,000.--
Agricultural tools	about 200,000	about 30,000,000.--
Gas generators for German and Russian tractors	about 24,000	about 35,000,000.--
Reaping machines	about 35,000	about 15,000,000.--
Spare parts for German and Russian tractors and agricultural machines		about 10,000,000.--
Scythes and sickles		about 10,000,000.--
Miscellaneous (hand equipment, tools driving-belts etc.)		about 15,000,000.--
	Total:	about 180,000,000.--

I do not think one can say that these deliveries were made in view of an exploitation. So, in this too, ROSENBERG accomplished a piece of constructive work that was really a blessing.

In the following, I will first treat the question of ROSENBERG's automatic responsibility as minister for the Eastern territories and then his criminal liability on the grounds of his official position.

2. Automatic responsibility(criminal liability)?

On 17. July 1941, ROSENBERG was appointed Reich Minister for the occupied East territories. Two Reich commissariats were set up as supreme territorial authorities: " O s t l a n d ", (Esthonia, Latvia, Lithuania and white-Ruthenia) under the Reich Commissioner LOHSE and U k r a i n e under Reich commissioner KOCH. The Reich commissariats were divided into general districts and regions.

Right from the beginning, the East Ministry was not conceived as an administrative authority built on a large scale, but as a central office,

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and supreme authority, which was to confine itself to over-all instructions and fundamental directives, and in addition was to ensure the reinforcing of material and personnel. The actual government was the duty of the Reich commissioner, he was the sovereign in his territory.

It is moreover, of special importance, that ROSENBERG as Minister for the East was not at the head of the whole Eastern administration, but that several top authorities existed at the same time. Goering, who was plenipotentiary for the four-year plan, was responsible for the control of the economy in all occupied territories, and in this respect had authority over the minister for the East, for ROSENBERG could only issue economic decrees with Goering's permission. The chief of the German police HIMMLER was solely and exclusively competent for the security of the occupied Eastern territories as far as police authority was concerned; there was no police division at all in the ministry for the East, neither in the Reich commissariats. ROSENBERG's competence was furthermore undermined by HITLER the "Reich commissioner for the preservation of German nationality" and by SPEER, on behalf of whom a Fuehrer-decree detached all technical matters from the East administratio It was further weakened by GOEBBELS who claimed for himself the control of propaganda in the occupied Eastern territories too. Later on I shall come to the important question of labor employment which was put under the authority of SAUCKEL.

Nevertheless, ROSENBERG was the minister responsible for the occupied Eastern territories. In this respect, the following must be emphasized: In this trial, ROSENBERG is not made responsible from the political standpoint, since the high tribunal is no parliament; neither is he made responsible from the point of view of constitutional law, for the high tribunal is not a Supreme Court of Judicature. The liability of the defendant with respect to civil law is not in question either; but only his penal liability, his responsibility for

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his own alleged crimes and for the crimes of others. I do not need to outline in more detail that for a penal liability and condemnation, it must be proved that the defendant culpably and illegally committed acts forming a case which is punishable by law, and that he may only be punsished for a non-action, i.e., a commission, if he had the legal duty to act, and if it was due to his inaction that the criminal result occurred, i.e., if he had the factual possiblity of preventing the criminal result.

It seems to me of decisive importance that Rosenberg was a minister for the occupied Eastern territories, but not a sovereign. The Reich/commissioners were sovereigns of the gigantic territories "Ostland" and "Ukraine". The lines alon which these territories were to be constitutionally remodelled were not visib yet, but one thing was certain:

T h e R e i c h C o m m i s s i o n e r w a s t h e h i g h e s t a u t h o r i t y , for instance, it was he, who in the most important measures, like the shooting of inhabitants of a region for acts of sabotage, had the right to make the ultimate decision. (Do. No. EC-347, USA-320, Prot. Page 2285). The Reich, i.e. partly the East ministry and partly other authorities detained the right to make fundamental legislation and give over-all supervisi By a slight change in the well known remark of Benjamin CONSTANT, the French professor of constitutionallaw: "Le roi regne, mais il ne gouverne pas" one may define in the following way ROSENBERG's position as minister for the occupied territories of the East: "Le ministre gouverne, mais il ne regne pas". A in certain dominions of the British empire, there existed a sovereignty of the Reich Commissioner with a central over-all supervision on the part of the minister for the East. Today, nobody would think of summoning the competent Englis minister before a tribunal, because a governor in India had allowed native villages to be bombed and burned down. And so I come to my conclusion, that i Rosenberg's case there exists no automatic, penal responsibility for the non-pr vention of crimes in the East, because although he had the authority and super vision

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but was not sovereign, the two Reich Commissioners had the supreme authorit

It must furthermore be asked and briefly examined, whether the defendan is individually responsible, i.e. individually guilty of criminal exploitati and enslavement of the nations of the East and, may be, of further crimes. What was his attitude, what were the general lines and general trends of his policy, what did he positively do and what did he prevent or at least try to prevent ?

3. Individual responsibility (penal culpability)?

a) General lines and general trends of ROSENBERG's policy in the East. In the Baltic countries, national administrations (directorates) were installed under German supervision. The German administration was compelled by the Reich minister for the occupied territories of the East, to show the greatest understanding for all desires which could be gratified and strive for a good relationship with the Baltic countries; the Baltic countries had a free legal, educational and cultural system and were only limited with respect to questions concerning politics, economy and the police. After the war of 1914-1918 agrarian reform in the Baltic states was carried out at the expense of the 700 years old German property. Nevertheless, ROSENBERG as Minister for the East, made a law giving back to private owners the farms which had already been collectivized in past by the Soviet Union after 1940, and in this restitution of the soil which had once been taken away from the German proprietors, showed the greatest good will conceivable on the part of the German Reich.

This, as well as the already-mentioned agrarian order has been expressly confirmed by witness RIECKE (Transcript Page 8032)

In the general district of White Ruthenia, the independant administration was initiated under Reich Commisser KUBE. The

"White Ruthenia Central Committee" was founded, furthermore a White Ruthenian relief system and a White Ruthenian youth organization. When a White Ruthenian youth delegation returned from a visit to Germany, KUBE said, that he would continue to act as a father to the White Ruthenian youth. In the following night he was murdered, but his policy was not changed.-- I should like to observe in passing that the actual Russian territories between Narwa and Leningrad and around Smolensk had remained all the time under military administration. Likewise the districts around Kharkow and the Crimea.

As far as the Ukraine is concerned, ROSENBERG intended to give it as soon as possible, an extensive central self-administrative sovereignty, similar to the directorates in the Baltic states and pledged to a definite advancement of the cultural and educational needs of the people. After ROSENBERG had originally thought that he could assume, HITLER agreed to this idea, another conception came to prevail, namely that all forces should be directed towards the war economy. Rosenberg only managed to achieve and carry through one thing: The new agrarian order of 15 February 1942 which provided for a transition from the collective economy of the Soviet Union to personal exploitation, and then to ownership by the peasants. On 23 June 1943 the property declaration was issued as a complement to this. At first, it was not possible to carry it out because of Reich Commissar KOCH's resistance, but then, military events brought everything to an end. A further fundamental decree was based on a general adjustment of the school system, which ROSENBERG had ordered to be worked out, because the Reich Commissioner of the Ukraine declined to do it himself. ROSENBERG provided for elementary schools and higher technical schools, the Reich Commissioner protested against this. On account of the conflict which became more and more acute between ROSENBERG and Reich Commissioner KOCH, HITLER issued, in June 1943, the

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following written instruction: The Reich Commissioner had no right to make any obstructions, but the Reich Minister for the occupied territories of the East should confine himself to essential questions, and when issuing any orders should make it possible for the Reich Commissioner of the Ukraine to take up his position beforehand, which practically meant KOCH's coordination along with ROSENBERG.

b) Witness LAMMERS

During his examination of 8 April 1946 (Transcript P.7374) the witness LAMMERS described ROSENBERG's peculiar constitutional position as Reich Minister for the occupied territories of the East, and his political position which became weaker and weaker. I would like to emphasize the following striking and especially important declarations made by the witness: the authority of the Reich Minister for the occupied territories of the East was undermined by the Wehrmacht, by GOERING as plenipotentiary for the four-year plan, by HIMMLER as chief of the German police, by HIMMLER as Reich Commissioner for the preservation of German nationality (resettlement measures), by SAUCKEL as general plenipotentiary for Labor utilization, by SPEER in the field of armaments and technique and finally through differences of opinion with propaganda minister GOEBBELS. Furthermore, ROSENBERG was limited by the fact that two Reich Commissioners, LOHSE and KOCH, were appointed for the occupied Eastern territories. The higher SS and police chief was "personally and directly" subordinated to the Reich Commissioner. but, as LAMMERS has declared, in technical respects he could not receive any orders from ROSENBERG or from the Reich Commissioner but only from HITLER. - LAMMERS said furthermore: ROSENBERG always wished to pursure a moderate policy in the East he was w i t h o u t a n y d o u b t a g a i n s t a " p o l i c y o f e x t e r m i n a t i o n " a n d a g a i n s t a " p o l i c y o f d e p o r t a t i o n ", which was often advocated by other parties. He made efforts to re-build agriculture through the agrarian law, to put order into the educational system, church affairs, the universities and schools. ROSENBERG had great difficulties in succeeding, for

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the Reich Commissioner for the Ukraine before all others simply did not follow ROSENBERG's orders. ROSENBERG was for setting up a certain independence of the Eastern nations, he especially had at heart the cultural interests of the latter. The differences of opinion between KOCH and ROSENBERG filled volumes of files. HITLER called ROSENBERG and KOCH, and decided that they should meet each month in order to consult each other.

The witness LAMMERS said quite rightly that for ROSENBERG as the superior minister it was unendurable to have to come to an agreement in each case with his subordinate the Reich Commissioner; subsequently it was shown that in spite of the meeting they came to no agreement, and finally it was Mr. KOCH who was right in the eyes of the Fuehrer. As LAMMERS finally says, it was about the end of 1943 that ROSENBERG was received for the last time by the Fuehrer, and before that time too he had always great difficulties in reaching the Fuehrer. There were no more Reich Cabinet sessions since 1937 already.

c.) ROSENBERG AND KOCH

HITLER turned his attention more and more to the BORMANN-HIMMLER group. The East became the ground for experiment. For this group, as is now quite clear today, it seemed hopeless to look for an understanding on the part of ROSENBERG, for the development of the Reich as they wished it. ROSENBERG had no idea of the extent of the fight put up against him. His argument with Reich Commissioner KOCH, the exponent of HIMMLER and BORMANN, is a proof of this ignorance, but it is also a complete proof of ROSENBERG's integrity.

On 14 December 1942, ROSENBERG issued an instruction to the Reich Commissi of the Ukraine (1921-PS, Ro.11.); his other instructions have unfortunatel not been found. In this, ROSENBERG requests the chiefs of the administratic to preserve a decent attitude and views, he demands justice and

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human understanding for the population, which has always seen in Germany the bearer of legal order; war brings terrible hardship, but every offense must be fairly examined and judged and must not be punished to excess; it is absolutely inadmissible that German agenci oppose the population with contemptuous speeches. One can only show one is the master by taking the right attitude and through one's actio not by obtrusive behavior; our own attitude must bring others to resp the Germans; those chiefs of the administration, who have shown thems ves unworthy of their task, who have misused the authority they were given and who by their pernicious behavior have became unworthy of ou uniform, must be treated accordingly, summoned before a court or remo to Germany.

The echo, which such decrees aroused on the part of KOCH, is sho in his memorandum of 16 March 1943 (192-PS, Ro.14). KOCH writes: "It is strange, that not only a correct attitude must be taken with the Ukrainians, but that we must even be amiable to them and always read to help.

Furthermore, ROSENBERG demands esteem for the highly-developed self-consciousness of the Ukrainian people and according to ROSENBERG a high degree of cultural self-administration is desirable for the Ukraine, nations as big as the Ukrainian one is,cannot be kept in permament dependence, the Eastern campaign is a political campaign an not an economic forage raid. Here KOCH is speaking to ROSENBERG in a cynical manner about the climax reached in the relations of his organ- ization with Ukrainian emigration.

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There are other decrees of Rosenberg's which are criticized by Koch. One of these is the decree of 18.6.1942 concerning the acquisition by Rosenberg of Ukrainian schoolbooks for a total of 2,3 millions Reich Marks to be charged to the budget of the Reich Commissariat without even previously getting in touch with Koch. 1 million primers, 1 million spelling charts, 2oo,ooo arithmetic books, were to be provided at a time when there was not enough left for German school children.

Koch goes on saying: It is not necessary to point out repeatedly in the decrees issued by your Ministry and in long-distance remonstrances that any coercion in hiring laborers should be avoided and that the East Ministry even demands to be informed of any instance in which compulsion has been used. By a subsequent decree Koch is blamed to have caused the closing of vocational schools and that Rosenberg ordered the General Commissars to adopt another school policy, circumventing the Reich Commissar's authority.

Koch then concludes with a veiled threat that to him, a veteran Gauleiter, the way to the Fuehrer would not be barred.

So much challenging criticism of Rosenberg, so much unintentional praise and so much proof of absolute decency of his behavior and the farsighted and statesmanlike direction of his office as Chief of the East Administration!

The last document in the fight of Rosenberg against Koch is the report regarding the Reich Commissar Koch and the timber region of Zumand of 2 April 1943 (032-PS, regarding which Rosenberg gave exhaustive information as a witness. In this very matter Rosenberg displayed his conscientiousness so clearly. (Protocol page 793o and pages 8019-8021).

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d) Rosenberg and Bormann

And now we have to unroll another scene before our eyes because the prosecution attached specific importance to it:

In July 1942 ,Bormann wrote a letter to Rosenberg. Rosenberg replied and a third party, Dr. Markull, an associate of Rosenberg in his Ministry, wrote a acriticism of it. (Transcript, p. 7971 f.). According to Dr. Markull's representation, the meaning of Bormann's letter, the original of which is not extant, contained the following points: the Slavs should work for us; if of no use for us, they ought to die; health provisions were superfluous; the fertility of the Slavs was undesirable, their education dangerous: it will do if they can count up to one hundred. Every educated person is a potential enemy. We were leaving them their religion as an outlet. As sustenance they should receive only the barest necessities, we are the masters and we come first.

To that letter of the closest collaborator of Hitler there could be only one reply by Rosenberg: feigned consent and feigned compliance. In the inner circle of the East Ministry there arose considerable apprehensions regarding this significant change in the attidue of their chief, apprehensions which were expressed in Dr. Markull's memorandum of 5.9.1942. Rosenberg as a witness has stated and there cannot exist any doubt about it by reading that writing impartially, that he agreed only for the sake of pacifying Hitler and Bormann. He wanted to insure himself against an attack from the Fuehrer Headquarters which he anticipated with certainty, because he supposedly did more for the Eastern population than for the German people, because he required more physicians than there were available for sick Germans etc. The memorandum of Markull is the truest possible reflexion of Rosenberg's personality and influence as it shows the anxious subordinate trying to conjure the former spirit of his Minister, as he got to know and to love him in his work, against an alien phantom who

seemed to have taken his place.

It says there that though the train of thought conforms with the policy of the Reich Commissar Koch, but not with the decrees of th Minister and the conception of at least 80 per cent of the regional commissars and specialists counting on their Minister, according t which decrees the Eastern population should be treated decently an with understanding, that it is showing a surprisingly high capacit for culture, that their efficiency in work is good, but that we ar about to dissipate a precious capital of gratitude, love and confi ence. That the controversy between the Minister and the Reich Commissar was well known among the high authorities of the Reich and that it was no secret that the Ministry was unable to carry out it policies against the Reich Commissars, who considered the East Ministry as entirely superfluous. That the writings of Borman would disavow the total policy of the Minister up to now and that one had the impression that Koch has been considered by Hitler as being right in his opposition to the Minister. That since its foun ation the Ministry had to complain about an ever increasing loss of power. The higher SS and Police officials refused to render to the General Commissar the normal honors such as reports etc. One jurisdiction of the East Minister after another was transferred to different highest Reich authorities, in the offices in Berlin it was openly said that the remodelling of the Ministry into a mere Operations staff (Fuehrungsstab) was to be expected. On the other hand, the Reich Ministry for the Occupied Eastern Territories, due to the personality of its leader enjoyed the exceptional respect of t public.

Dr. Markull implores the Minister to stand by his original ideas, that the unfortunate Master complex should be as much avoided as t opinion that the intelligentsia

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were alien to the masses.

The influence of spiritual forces should be taken into consideration. Germany must prove a "righteous judge", acknowledging the national and cultural rights of nations. Such has been the ideas of the Minister before and such they must remain.

Rosenberg's attitude did not change in fact, as at that very time he was working on the great School Order (Schulverordnung). Later on he effected the reopening primarily of the medical faculties in colleges. And then it came to the conflict with the Fuehrer in May 1943.

4. Tendering of Resignation.

On 12-10-1944 Rosenberg tendered his resignation through Lammers to the Fuehrer (Doc. No. Ro. 14), because the German Eastern policies in general and the political psychological treatment of Eastern nations in particular had been opposed from the very start to his previously conceived plan of autonomy of the Eastern nations and of the cultural development of their capacities amid an all- European conception of a family of nations on the continent. Now he had made up his mind seeing a great statesmanlike program gone to pieces.

All he could do in regard to the policy of enslavement and looting which was going on in his country was merely to accept memoranda from his colleagues in the Ministry or at best indulge in a futile paper war with people like Koch.

He was not strong enough against the blinded forces in the East and what plans they wanted to carry out and he was powerless against their influence, being in addition totally unaware at that time of all police and army orders, now presented here to the Tribunal.

When Rosenberg once reminded Hitler of the foundation of a university in KIEV, Hitler apparently agreed. After Rosenberg had left and he was alone with Goering, Hitler said:"This fellow has special worries. We

have more important matters on our mind now than universities in Kiev."
(Protocol of 16-3-46, morning, 10 - 13 hours).
No episode can illustrate the theme better than all the documents: The theme, Rosenberg and reality in the East, and the other theme: Rosenberg as the alleged inspirator of Hitler. As Rosenberg did not receive any reply to the request for resignation, he tried many times to talk to Hitler personally. It was all in vain.

IV.

Labor Employment in the East.

On 11.12.1945 Mr. Dodd said: "The system of hatred, barbarism a denial of personal rights, which the conspirators had elevated to the national philosophy of Germany, has followed the national-socialist masters when they overran Europe. Foreign workers became the slaves of the master race, being deported and enslaved in millions." And on 8.2.1946 General Rudenko said (Prot.p.4116): "In the long li of ruthless crimes committed by the German fascist troops of occupation, the forcible deportation of peaceful citizens into slavery and bondage in Germany takes a particularly important place. "For the inhuman and barbaric instructions, directives and orders of the Hitler government, whose purpose was the carrying out of the deportation of Soviet people into German slavery, hesaid, Goering, Keitel, Rosenberg and Sauckel were particularly responsible.

1. Sauckel's Jurisdiction.

I have already spoken of the formal and individual responsibil of Rosenberg as Reich Minister for the occupied Eastern territory. I have already explained, too, that in the field of labor employment it was not Rosenberg, but

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Sauckel who, as General Plenipotentiary for the Employment of labor, was the highest instande and the responsible person, by virtue of the Fuehrer's decree of 21.3.1942 (See e.g. Doc. No. 580-PS. and the writings of the R.M.f.d.b.C. (Rosenberg) to the Reichs Chancellery of 6.3.1942). Thus Sauckel in his field was Rosenberg's superior.

He wrote on 10.3.1942 to Rosenberg (Doc. No. 017-PS.,USA-180): "The Führer has drawn up new and most urgent armament programs which require the speediest employment of 2 millions additional foreign workers. For the execution of his decree of 21.3.1942 the Fuehrer has given me for my further tasks m o r e a u t h o r i t y , p a r t i c u l a r l y e m p o w e r i n g m e t o u s e m y o w n j u d g m e n t i n t a k i n g a l l m e a s u r e s in the Reich and in the occupied Eastern territories in order to insure under any circumstances an organized employment of labor for the German armament industry. " In his "Program for the Employment of Labor" of 24.4.1942 (Doc. No. 016-PS, USA-168) he emphasizes that the regional employment offices are in charge of all technical and administrative matters of labor employment coming under the execlusive competence and responsibility of the General Plenipotentiary for the Employment of Labor. The defense of Sauckel is not my task. But may I point out that he also did not take over his great and difficult task with feeling of hatred and intentions of enslavement. In his program for the employment of labor just mentioned he says for instance:"Everything has to be avoided which, beyond the shortages and hardships caused by was conditions would aggravate and even cause unnedessary sufferings to foreign male and female workers during their stay in Germany. It stands to reason to make their presence and their work in Germany, without any loss for ourselves, a s b e a r a b l e a s p o s s i b l e . On that point Sauckel and Rosenberg shared the same opinion.

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Neither is it my task to state and to prove that many hundred thousands of foreign workers have found their good fortune in Germany, that in fact numberless persons were better off here than in their fatherland, but I am only conc ned with the bad conditions which have been charged to the defendant Rosenber

2. Central Agency for Nationals of the Eastern Territories.

The war was getting more and more intensive in its totality and brutality, and the German worker and any other German certainly lived like anything but a lord. So far as he was not drafted into the army, the German becau se of obligatory service was assigned to some work, had to work long and hard was separated from his family, had to be satisfied with poor lodgings, particularly due to progressive destructions by air raids and he also was severely punished for evading or delaying work.

The fact that the foreign worker was also affected by that totality and brutality, in some respects undoubtedly more than the German, certainly cannot be charged to Rosenberg, neither legally nor morally. His Ministry was established by him as a central agency for nationals of the Eastern Territori filled with trustworthy persons from all Eastern nations, which had neither policy tasks nor any other authority in the labor administration, but served the welfare of the Eastern nations. In its report of 30-9-1942 (Doc.No. 084-PS U.S.A.-199) all kinds of defects are pointed out: that the lodging, treatment food and payment of wages of Eastern workers have given rise to severe criticism. Though much has been improved (sealing date 1-10-42) the general condition of the Eastern worker

is still dissatisfactory. Rosenberg therefore should have a consultation with Hitler in order to ask for his personal vigorous intervention, particularly to get Himmler to annul his general instructions for the treatment of Eastern workers, to instruct the Party and its chancellery to keep in mind their responsibility before history in treating the millions of former Soviet citizens, and to consult the Reich Minister on any measures concerning Eastern workers employed in the Reich. It is finally proposed to enlarge without delay the Central Agency for Eastern nationals to function as an extended arm of the Reich Ministry East and as representative of foreign nationals from the occupied territories residing in Germany, thus being able to look after their affairs more effectively. In this spirit, namely in the spirit of social trust and human welfare the Eastern Ministry worked for the Eastern workers.

3. Rosenberg and Sauckel.

To refute the accusation that Rosenberg was active as protagonist of the system of hatred and barbarism, of denying human rights and of enslavement, I must add the following. Rosenberg received further unfavorable reports, one being the report of 7/10/1942 about the bad treatment of Ukrainian skilled workers (054-PS, USA-198). Abuses in recruiting and during transportation were pointed out; the workers were frequently dragged out of their beds at night and locked up in cellars until the time of their departure; threats and blows by the rural militia were a matter of course; food brought from home by the skilled workers was often taken from them by the militia; during transportation to Germany neglects and transgressions on the part of the escorting units occured etc.

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Rosenberg had no authority whatsoever to intervene in those matters. But he tr to do so in a letter of 21-12-1922 to Sauckel (018-PS,USA-186). Rosenberg first admits his fundamental accord with Sauckel, but after a few tactical and polite cliches he complains seriously and urgently about the methods used in the employment of labor: "I must emphatically request for reasons of my responsibility for the occupied Eastern territories, that any methods to supply the required contingents be excluded, if I or my associates might be accused one day for tolerating them and for their consequences."

Rosenberg further states that he empowered the Reich Commissar for the Ukraine to make use, so far as required, of his sovereign right by giving attention to the elimination of recruiting methods which are running counter the interes of warfare and war economy in the occupied territories. He, Rosenberg, and the Reich Commissars cannot help being surprised that in numerous instances measu which should have been determined by civilian authorities, were first communicated to him by the police or other offices. Without coordination of their mutual wishes, he, Rosenberg, was unfortunately unable to accept the joint responsibility for consequences resulting from these reported conditions. In conclusion Rosenberg expresses the wish to put an early end to such conditions for the sake of their common interests. Rosenberg also tried a personal consultatio with Sauckel, and got Sauckel to promise that he would do everything to bring about a fair solution of all these questions. (Conversation of 14.4.1942, Doc. Nr. 020 PS, Ro.9). It was beyond Rosenberg's power and authority to do more. His secret opponent, supported by higher authorities was Reich Commissar Koch, who

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was indeed the chief culprit in the cruel recruiting and employment methods for Eastern workers and whose influence Rosenberg was unable to counteract. (See the same document).

When the prosecutor (Brudno on 9.1.1946, Prot. p. 2277/78) charges the defendant for protesting against these methods not for humanitarian reasons but for the sake of political expedience, I can only say that in my opinion one cannot simply maintain that the defendant Rosenberg is devoid of any human qualities without some sound reasons.

4. "Hay action" (Heuaktion)

As an example of the defendant's particular bestiality the so-called "Hay action" has been repeatedly pointed out by the prosecution (031-PS, USA-171). It concerned the intention of the army group "Center" to evacuate 40 to 50 thousand juveniles from the area of operation, as they represented a considerable burden to the area of operation and, besides, were in the majority without any parental supervision. Villages for children were to be established behind the front lines under native supervision. One of these villages had already proven its value. It was expected that through the Organization Todt, being a particularly appropriate organization due to its technical and other possibilities, the juveniles would be introduced to German handicraft first as apprentices in order to employ them as skilled workers after two years training. At first Rosenberg, as the Reich Minister for the occupied Eastern territories, was against it, because he feared that the action might be considered as a deportation of children and on the other hand because the juveniles did not represent a considerable increase of military strength. The chief of the political operational staff approached Rosenberg again that the army group "Center" attached particular importance to the fact that the children should reach the Reich not by the authority of the General Plenitentiary for the Employment of Labor, but through the agencies

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of the Reich Minister East, as only then could they be assured a correct treatment. The Army Group wanted the action to be carried out under the most loyal conditions and wanted special regulations to be issued with regard to the taking care of these people, as regards a mail service between them and their parents etc. In the event of a possible re-occupation of the territory the East Ministry could then let the boys go back. Together with their parents they would certainly form a positive element during the subsequent re-construction of the territory. Finally as reason for the second request addressed to the Minister it was stated in addition that the boys, to be sure, would not essentially contribute to strengthening the military power of the enemy, but that the important factor in this case was the long-range weakening of the biological strength of the enemy; not only the Reichsfuehrer SS but also the Fuehrer had expressed themselves to this effect. Rosenberg finally gave his consent to this action. - To this it may be said that: it concerned a field which was not at all within the jurisdiction of Rosenberg's administration; He did not want to destroy foreign peoples even if biological weakening was given him as a reason, - a reason which he himself did not recognize. Instead he wanted to have the children educated and trained in order to bring them with their parents back to their homes later on. That is more or less the contrary of what the defendant is criminally charged with. Later on (late in summer 1943) Rosenberg visited the Junker's plants in Dessau where approximately 4700 young White Ruthenian craftsmen were employed, and also visited a White Ruthenian children's camp. The clothing of young workmen was irreproachable, they were industrious enjoyed the best treatment and got along very well with the Germans. As Rosenberg was able to see for himself

the young people were taught languages and mathematics by Russian teachers. The children were cared for in forest camps by White Ruthenian mothers and women teachers. The figure of 40 000, moreover, was never attained, in fact, barely half of it.

The attempt of the prosecution in this instance to appeal especially and to the disadvantage of the defendant to considerations of humanity cannot be succes ful in my estimation. For it is exactly this example which compelled me to point out the following in particular: We were in the midst of a war which was being conducted with terrible intensity on both parts. Is not war in itself "monstrous bestiality"? The "weakening of the biological strength of nations" is truly a fitting expression for the goal and purpose of the whole war, for that is what the thoughts and efforts of both belligerent parties were aimed at It is impossible to think t h a t o n e s h o u l d w a n t t o f o r g e t t h i s in judging the actions of the defendants, and that one should hold the defendants responsible not only for unleashing the war but in addition for the fact that war in its very essence constitutes a great crime on the part of mankind both against itself and against the laws of life.

5. Matters of International Law.

The prosecution contends that Rosenberg is guilty also in so far as it was he who issued the inhuman and barbarian decrees which aimed at carrying out the deportation of Soviet people into German slavery; this brings me to discuss the question as to whether the compulsory labor decree of 19 December 1941 and Rosenberg's other decrees concerning compulsory labor for the inhabitants of the Eastern territories were contrary to International Law.

The Eastern territories administered by Rosenberg had suffered a military occupation during th war. Through this "occupatio bellica" Germany realized a complete domination and had the same sovereignty as over her own territory.

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While according to previous conceptions of International Law the occupying power could act and rule arbitrarily without consideration of rights and laws, recent developments in international law eliminated the principle of force and brought victory to the principles of humanity and culture; ergo, the formerly unlimited right of the occupying power was modified into limited rights; the Ha Rules of Land Warfare stipulated in particular the l e g a l d u t i e s of the occupying power. On the other hand, it is not true either that the Rules of Land Warfare set up only certain rights for the occupying power; they merely set bounds to the i n t r i n s i c a l l y u n l i m i t e d r i g h t of the occupying force to exercise a l l powers deriving from territorial sovereignty over an occupied territory. From this results the following principle which is re cognized by international law:

Measures undertaken by an occupying power in an occupied territory are legal as long as they are not in opposition to an authenticated legal stipulation of the International Rules of Warfare. S u p p o s i t i o n , therefore, would indicate that the occupying power is entitled to the full exercise of all powers deriving from territorial sovereignty over an occupied territory. According to the uniform opinion of experts on international law the occupying power acts by virtue of an original law of its own which is guaranteed and defined as to contents by international law only, i n t h e i n t e r e s t o f i t s o w n c o n d u c t o f t h e w a r as well as for the protection of the civilian population in the occupied territory. (Cf. HEYLAND in the Handbook on International Law, published by STIER-SOMLO, 1923, pages and following). The inhabitants of the occupied territory no longer have a duty of allegiance to the enemy sovereign but only to the occupying power; the will of the occupying power rules and decides in an occupied territory; the occupying power is the executor of its own will; its own interests alone are decisive for the exercise of its sovereign rights and it, therefore, is at liberty to act against the interests of the enemy state. (HEYLAND, as above, p. 13).

In view of article 52 of the Hague Rules of Land Warfare the right to conscript labor in the occupied territory is denied. It is stipulated thereby that l a b o r s e r v i c e s may be demanded from the inhabitants of the occupied territory; the employment must be limited to the requirements of the occupation forces, it must be adjusted to the available resources of the country and must be of such a nature as not to compel the population to participate in military operations against their own country. In these stipulations I cannot discern any prohibition of labor - conscription in occupied territories; on the contrary, I consider that an approval of compulsory labor service can be deduced from them at once. The employment of such labor in war industry is undoubtedly in accordance with the requirements of the occupation forces and, in my estimation, it is equally beyond doubt that this constitutes no commitment to military operations. The rules of Land Warfare contain no stipulations as to whether labor service may be demanded only in the home-country or whether the conscript may be transported into the native land of the occupying power for the purpose of rendering labor services there. Thus, the general principle holds good, that supposition speaks for the authority of the occupying power to exercise to their full extent a l l powers deriving from territorial sovereignty.

If one takes the correct stand that the International Rules of Warfare should tend to humanize war by limiting the rights of the belligerents and that more progress could be made in this sense one must consider, on the other hand, that the stern reality of war tends to lead in the opposite direction. Present day warfare is no longer what it was for people in 1907; war has developed into total war, a life and death struggle of annihilation, in which the very last and remotest physical and moral forces of the nation are mobilized,

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and the loss of which, as is shown by the example of Germany, means unconditional surrender and total destruction of her existence as a state.

Can one maintain in view of this fact that Germany in this strug of life and death should not have been granted the b a s i c r i g o f s e l f - p r e s e r v a t i o n recognized by international law? (Cf. Strupp in Handbook on International Law, published by Stier-Somlo, Stuttgart 1920, part III, "Violations of International Law," pages 121 and following) there is no doubt that the very e x i s t e n c e of t state was at stake, i.e., it was an emergency which justified the compulsory employment of labor even if it had n o t have been permissible according to international law. It is inherent in the charac of that anomaly called war that international law, as soon as the sta of war, has been proclaimed is set aside in the interest of the objec ive of that war, the overpowering of the enemy. (Strupp, as above, page 172.) Even though the development of civilization was accompanie by a progressive moderation of this conception according to which everything goes in war until the enemy is destroyed, the rules of warfare constitute even today a compromise between the demands of milita necessity with their fundamental boundlessness a n d chastened huma itarian and civilized views. And one thing is certain, at any rate, namely that the existence of a g e n u i n e e m e r g e n c y ma be pleaded even under the stipulations of the Hague RLW. During the negotiations preceding the formulation of article 46 of the RLW the following was stated literally and without any opposition: "The restrictions will effect the liberty of action of the belligerents in certain extreme emergencies"; for extreme emergencies, therefore, a state of emergency may be pleaded. It is a recognized international law that even an a g r e s s or must not be denied the right of pleading a state of emergency in case his e x i s t e n c e is directly t h r e a t e n e d. (Strupp p.170).

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Persecution of Jews.

Contrary to the assumption of the Prosecution, ROSENBERG was by no means the inspirer of Jewish persecution, any more than he was one of the leaders and originators of the policy adopted by the Party and the German Reich, as the Prosecution claims. (WALSH on Dec.13,1 transcript p.1244). Certainly, ROSENBERG was a convinced anti-Semit who expressed his conviction and the reasons for it both verbally and in writing. However, in his case anti-Semitism was not the most outstanding of his activities. In his book "Blood and Honor", speeches and essays 1919-1933, out of 64 essays e.g. only one had a tit referring to Jewry. The same applies to the other two volumes of hi speeches. He felt his spiritual ancestors to be the mystic Master ECKEHART, GOETHE, LAGARDE, and Houston Stewart CHAMBERLAIN; Anti-Semitism was for him a negative momentum, his chief and most positiv efforts were directed toward the publication of a new German intell ectual attitude and a new German culture. Because he found this endangered after 1918, he became an opposer of Jewry. Even such different personalities as von PAPEN, von NEURATH, RAEDER, now confessed to their belief that the penetration of the Jewish element into the whole of public life was so great that a change must be brought about. It strikes me as very important, however, that the nature of Rosenberg's anti-Semitism was intellectual and above all, noble; e.g. at the Party Session 1933 he spoke plainly of a "c h i v a l r o u s" solution of the Jewish question. We never heard ROSENBERG use expressions like "We must annihilate the Jews wherever we find them; we shall take measures that will lead to a sure success. We must cut out all feelings of sympathy". The prosecution itself quotes the following as an expression of the program ROSENBERG set up for himself:

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"The Jewish question will find a decisive solution after the Jews have been ousted, as a matter of course, from all official positions, and through the setting up of Ghettos" (WELSH, Prot. p. 1236, Doc.No.1028-PS, USA-273). It was not a mere question of chance that ROSENBERG did not take part in the boycotting of Jews in 1933, that he was not called upon to help work out the laws against Jews 1933/35 etc. (Expatriation, Prohibition of marriages, Withdrawal of the right to vote, Expulsion from the more important positions and offices etc.). Above all, he never took part in the action of 1938 against the Jews, nor in the destruction of synagogues and anti-semitic demonstrations. Neither was he the instigator in the background, who sent out smaller people to commit certain actions or ordered them to do so. To be sure, ROSENBERG was a true follower of HITLER's, of the kind that took up Hitler's slogans and passed them on. Like the motto: "The Jewish question will be solved only when the last Jew has left Germany and the European Continent:" Or once the slogan about the "extermination of Jewry." Exaggerated expressions were always part of the National-Socialist weapons of propaganda; a Hitler speech without insults to his internal or external political opponents, or without threats of extermination was hardly imaginable. Everyone of HITLER's speeches was echoed a million times by GOEBBELS down to the last speaker of the Party in a small country inn; the same sentences and the same words were repeated as HITLER had used and not only in all the political speeches, but in the German press, too, in all the leading articles and essays, until weeks or months later a new speech was held which elicited a new echo of a similar kind. ROSENBERG made no exception to this. He repeated all of Hitler's slogans just like the rest, that of the "Solution to the Jewish question", and once also that of the "Extermination of Jewry" etc. Apparently, like Hitler's other supporters, gave little thought to the fact that in reality none of these words are clear but they have a sinister double meaning.

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and that though they may mean real expulsion, and they may also mean the physical annihilation and murdering of Jews.

Quite apart from the knowledge and will of the German people, and apart from the knowledge and will of the majority of the leaders of the Party, there was hatched and carried out from 1941 onwards a mass crime which surpasses all human conceptions of reason and morality. The "Jewish question" was even further "developed" and brought to its so-called "final solution". The tribunal will have to decide the question Is ROSENBERG, too, as the specially characteristic exponent of the Party and Reich Minister for the occupied territories, responsible for the murdering of Jews, and particularly for the murdering of Jews in the East? Or must it be recognized and admitted that though he stands at a hairs breadth from the abyss, it was after all nothing but external circumstances which led up to it all, and these circumstances were outside his sphere of responsibility and guilt.

I believe I can say with complete conviction that ROSENBERG never aimed either openly or in secret at the physical extermination of the Jews. His reserve and moderation were certainly no mere tactics. The gradical slipping of antisemitism into crime took place without his knowledge or his will. The fact in itself that he preached antisemitism justifies his punishment as a murderer of Jews as little as one could hold ROUSSEAU and MIRABEAU responsible for the subsequent horrors of the French revolution. No matter how much the first impression might lead to it, criminal guilt on his part cannot be deduced either from his position as Reich Minister for the occupied Eastern territories. As stated already, the "Minister in charge" cannot be held responsible without more ado for criminal acts committed in the sphere of his occupations or his territory. C r i m i n a l r e s p o n s i b i l-

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according to the Penal Code Par. 357 exists only if an official knowingly assents to the criminal actions of his subordinates, and if - the commentary furnishes the details - t h e s u p e r i o r i s i n a p o s i t i o n t o p r e v e n t t h e a c t i o n.

I should like to take up the question of his responsibility on the grounds of the documents submitted:

1. The Action taken against Jews at Sluzk (Doc.No.1104-PS,USA-483).

On October 27, 1941 a horrible slaughtering of Jews took place in Sluzk throu the 4 companies of a Police battalion, because the Commander received an order from his superior to clear the city of all Jews, without exception. The regional Commissioner immediately made vigorous protests and demanded that the action be stopped at once. With pointed revolver he kept the police officer in check. He reported to the Commissioner General KUBE of White Ruthenia at Minsk, and the latter suggested to Reich Commissioner LOHSE that the officers implicated be punished for the "unheard of butchery." The latter reported to the East Reich Ministry with the request that measures be taken at once in higher places. The RMfdbO. sent the entire report to HEYDRICH, Chief of the Security Police and of the SD, requesting further instructions. Due to an ingenious system according to which the police was not responsible to the competent administrative chief, and was not even obliged to report, ROSENBERG could not take any further steps either in this or in other similar cases. He was not above the police and could only hope that the transfer of the report to HEYDRICH would be sufficient to stop what he considered to be regional excesses of the police. It can be seen from the indignation of all the administrative offices over the reported incidents, that none of them knew anything about them, that it was no question of excesses, but of an actio ordered by HEYDRICH and HIMMLER.

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And when HEIDRICH and HIMMLER declined responsibility ROSENBERG could not suspect anything either.

2. From October 1941too comes document No. 3663-PS in which the "Reich Minister for the occupied Eastern territories", signed "for Dr. LEIBRANDT" calls for a report by the Reich Commissioner OSTLAND because a complaint has been made by the Chief Office of Reich Security that the Reich Commissioner OSTLAND has prohibited Jewish executions in Libau. To this the addressee replied: "I rohibited the execution of Jews in Libau, because there was no justification for the way in which they were carried out." This is followed by a request for further instructions. Of this document, which is signed by the departmental chie LEIBRANDT, and which in no way points to any knowledge on the part of the defendant ROSENBERG, the following careful statement may be said in brief: It is not conceived as a reproach by the Reich Minister East, because the executions of Jews were not continued, but it simply points to the transfer of a complaint to the Reich security chief with a request to report. It is to be presumed that the reason for the complaint was that the Reich Commissioner Ostland encroached on the competency of the Reich Security Chief, and the demand for a report was supposedly issued in this sense. In the letter of December 18,1941 the Reich Minister East also signed "For BRAEUTIGAM" asking the Reich Commissioner Ostland to settle directly any questions which occurred with the higher SS- and Police leaders.

3. Document No. 3428-PS concerns a letter of the General Commissioner for White Ruthenia to the Reich Commissioner for the East. It is a shocking document about the mass extermination of Jews in White Ruthenia; however, there is nothin of interest in it for the case against ROSENBERG,

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because the horrible events may be attributed to him only if he knew of them and neglecting his duty failed to intervene. There is no actual proof to go by for a supposition of such knowledge.

The claim that these documents were found in ROSENBERG's possession is not in accordance with the actual facts for they show the Reich Commissioner in Riga as the addressee. To identify the sign R. as Rosenberg's initial because the Prosecution obviously was more than doubtful about Rosenberg's knowledge of matters, turned out to be a failure too.

4. In the "Aktennotiz for the Fuehrer of 18/12/1941" (Doc. No. 001-PS USA 282) the defendant suggested the following, which I must quote literally: "The outrages against members of the German Wehrmacht have not stopped, but have gone on. It looks as though there were an obvious plan to disturb German-French co-operation, to force Germany to take measures of retaliation thereby bringing about a new defensive attitude on the part of the French against Germany. My suggestion to the Fuehrer is that instead of killing 100 Frenchmen now, he should have 100 or more Jewish bankers, lawyers etc. shot". - It is not my task here to say how far it is admissible to shoot hostages, but one thing is certain, that ROSENBERG was convinced such a measure was admissible). But in that case his suggestion must be considered in that light, and can by no means be judged as an independent incitement to murder.

The suggestion, however, had no results; in his reply of December 31, 1941, LAMMERS acting on the Fuehrer's order, merely referred to the suggestion of utilizing the furniture and fittings from Jewish houses, and not to the shooting of hostages. (Doc. No. 1015Y-PS). Rosenberg made no more reference to it either.

At this point I should like to recall that ROSENBERG testified as a witness that on one occasion a regional commissioner in the East was sentenced to death for having extoited valuables from a Jewish family,

and that the sentence had been carried out. Please do not consider it a bad argument of defense when I s: : Does that not prove that ROSENBERG loathed criminal acts against the Jews ?

5. Document R-135, USSR-289 refers to the report of the General Commissioner of White Ruthenia, in Minsk, dated June 1, 1943, on the subject of what happened in the prison of Minsk as regards gold fillings. This was addressed to the Reich Commissioner of Ostland, who forwarded the report on the 18th of June 1943 with his marked anger.

At his hearing before the Tribunal on April 16, 1946, the defendant already made a statement on this point, and I would like to repeat this briefly now: He had returned on the 22-6-1943 from an official trip to the Ukraine and found a pile of notices about conferences, a number of letters and above all the Fuehrer decree from the middle of June 1943, in which ROSENBERG was instructed to limit himself to the principles of legislation of the law, and not to bother about the details. ROSENBERG did not read the letter, but he has to surmise - he cannot remember it - that the letter was explained to him by his office, and presumably in the course of the reading he was informed of many documents and learned that there was again serious trouble between the Police and Civilian Administration, and it is probable that ROSENBERG said: turn that over for investigation to Gauleiter MEYER or to the Police officer of liaison. If it were not so the terrible details would certainly have remained in ROSENBERG's memory.

Nobody doubts for a moment that the horrible crimes shown in the documents, and all the other frightful things not covered in the documents but which actually happened, call for atonement,

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nobody is in doubt that not only the lesser tormentors acting on higher order must be punished but also and above all those who issued the orders and those responsible for the crimes. ROSENBERG did not issue an order to murder the Jews, so much is clear, but is he in spite of this responsible for the frightful murderers?

The defendant has left no trace in handwriting on any of the murder documents, in any case it could not be determined that he knew anything about what went on. But can we condemn ROSENBERG on the basis of his supposed and probable knowledge? ROSENBERG has by no means the intention of playing a false and cowardly game of hide-and-seek behind his advisers and subordinates, but let us remember with what cunning the so-called executions of the Jews were kept secret not only from the public but even from Hitler's most important colleagues! Is it not possible and, even credible, that they were playing a game of hide -and-seek and especially with ROSENBERG? The thoughts and intentions of none of the other NSDAP leaders were revealed so openly and clearly to all the world as those of the editor ROSENBERG in particular, of no other could one be so sure that he would turn with indignation from the cruel,inhuman acts.

On the other hand, let us go a step further and assume that ROSENBERG had full knowledge of this, the greatest crime of all - it is not proved but one could imagine and surmise it - is he then responsible,too? Peculiar, even subtle,too, as we well know, was the departmental authority and the responsibility which went with it in the Eastern countries. The entire complex of the police force had been taken from ROSENBERG's sphere of influence, the highest instance was HIMMLER and under him HEYDRICH. Of their orders and measures ROSENBERG had no knowledge and no suspicion as a rule. The

lower strata of police chiefs and police organs were in effect subordinate and responsible to their police superiors and no one else. It was quite immaterial whether or not ROSENBERG knew anything of the measures taken by the police, he could do as little about it as any other of his fellow citizens in the third Reich. One might say yes, he could have remonstrated with HIMMLER or HITLER, he could have given up his position. Of course, he could have done so. The point, however is not whether he could have done it, the question is, would he have achieved anything by doing it. That is to say, whether he could have prevented the executions. For only in such a case could his responsibility be affirmed on the ground of his failure to do so, and only in such a case could one speak of causality without which criminal responsibility is unthinkable. One can make further claims, still under the assumption of ROSENBERG's knowledge of matters: That ROSENBERG could at least have stepped in against the Reich Commissioners, who were obviously involved in these matters.-- We know that the administrative organization and the dividing up of supreme authority the East were vague to say the least. The Reich Commissioners were soverei masters in their own territory, they had the final say in the shooti of hostages and in other retaliatory measures of far-reaching consequence. And what was the actual extent of their authority? In case th Reich Commissioner was dissatisfied with ROSENBERG - and he mostly wa dissatisfied- he went to HITLER. Does anyone really believe that if ROSENBERG had different opinions from these of KOCH as regards the execution of the Jews, he would have been upheld by HITLER if he had gone to him? In this again, there is a lack of that causality which i indispensable for a legal indictment.

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VI.

Operational Staff Rosenberg

1. Prosecution.

No less than three prosecutors have taken stand in this trial against Rosenberg and have accused him of having systematically stolen objects of art and science on a large scale in the East and West (Storey 18.12.45, Prot.P.1408, Gerthofer February 6, 46 Prot.P.3945. Smirnov Feb.15,46 and Feb.21,46.) First I must take exception to some obvious exaggerations and injustices, e.g. the assertion that the activities of the special staff (Sonderstab) in the West extended to public and private property without distinction. (Prot.p.3951), that the objects of art Germany appropriated, amount to more than the treasures of the

Metropolitan Museum in New York, of the British Museum in London, of the Louvre in Paris and of the Tretjakow gallery all together (Prot.P.1423). Further, I must declare the statement incorrect that the "looting program" of ROSENBERG was intended to rob the occupied countries of their entire centures - old possessions of art and science. Finally, the Prosecution contrasts ROSENBERG's actions to the looting of art - treasures in former wars, it says that while egotism, conceit, taste and personal inclination were the underlying motives of such looting, the national-socialists in the first place had the criminal intention of storing up reserves of things of value (Prot.p. 3965). I think it unnecessary to go back over the looting of art - treasures in former times as far as NAPOLEON, because the concepts of International Law and regulations have changed in the meantime, but I should like to mention two things: a) How many of the most famous objects of art in the most famous galleries of the world got there through the channels of war and how many got there in a peaceful way? b) I can accept the fact that the Prosecution denies ROSENBERG any delight in art, or joy in the possession of treasures of art as a possible motive for his actions, because ROSENBERG was no pirate of art, no thief. He had no intention of appropriating the objects of art for himself or for someone else.

What were the actual facts?

ROSENBERG's operative staff was active in the east and in the west, it had two tasks: 1) To search libraries, archives etc. for material, suitable for the "High School" of the party, which had been planned, to confiscate this material and take it away for the purpose of research, 2) to seize objects of cultural value that were in possession of or which belonged to Jews, or which had no owner or were of a doubtful origin. The Prosecution says: The true and only motive, the true and only purpose of thi "seizure" was robbery and looting. There could be no question of intentions of

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"mere safeguarding".

2. In
In the East.

On the 20th of August 1941, ROSENBERG wrote to the Reich Commissioner Ostland, he wished distinctly to prohibit the transfer of any kind of art treasure from any place whatsoever without the approval of the Reich Commissioner (Doc.No. 1015 c - PS). On the 30th of September 1942, (Doc.No.1015N-PS) an order was issued by the High Command of the Armed Forces in agreement with ROSENBERG, to the following effect:

"Apart from exceptional cases when it is urgent to safeguard objects of cultural value which are in danger, it is desired that for the time being such objects be left where they are." Further, it says: The troops and all military service posts within the operational area are invariably directed to spare valuable cultural monuments as far as possible and to prevent their destruction or damage." In the report of "Special Staff for Plastic Arts" (Work report for the period October 1940 to July 1944, Doc. No.1015B-PS, RF-1323) it says that in the occupied eastern territories the activities of the Special Staff for Plastic Arts were restricted to the scientific and photographic seizure of official collections, and that the safeguarding and protection of these was carried out in cooperation with the military and civilian service posts; it further says that in the course of vacating the territories a few hundred valuable Icons and paintings, etc. were saved and with the cooperation of individual army groups were brought to a place of hiding in the Reich. Finally, on the 12th of June 1942, ROSENBERG sent out the following decree in a circular letter to the highest Reich authorities. In the occupied eastern territories a number of service posts and individual people are occupied with the salvaging of objects of cultural value. They work from various angles and independent of each other.

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It is absolutely essential for the administration of these territories that a survey be made of the existing objects of cultural value. Furthermore,it must be seen to that as a general rule, they be left where they are for the time beir. To this end I have set up a central post for special discernment in my Ministry to lay hold of and salvage cultural values in the East."

ROSENBERG, as can be proved, proceeded from the point of view that objects of cultural value must remain in the country, and only through the retreat of the German troops were few hundred valuable icons and paintings brought into Germany.

In time of war objects of cultural value, both mobile and immobile, are as expo to the danger of destruction as are any other values. ROSENBERG put a stop to a unneccessary destruction, theft and removal inasmuch as he centralized the safe guarding of objects of cultural value and had all necessary action taken throug his operational staff in the east and west. (See e.g. ADELS' report on the library at Minsk 076-PS, USSR-375). It is quite in accordance with the conception of International Law (see SCHOLZ, Private property in occupied and unoccupied enemy country, Berlin 1919, page 36) that care should be taken on the part of the occupiers not only to protect but to safeguard and salvage protected objects of art, as far as the war situation permits; yes, it is even considered a cultural duty for the occupier to remove particularly valuable objects of art from the zone of fire and to place them in safety as far as possible; under circumstances, the concept of International Law may even make it the right and duty of the occupier to bring into his own country for reasons of salvage objects which are of special scientific and artistic value. This is not an inadmissible seizure (article 56 par2. LKO.), because the latter term could only apply to acts which are hostile to culture and not to acts which are friendly to culture. (see SCHOLZ on page 37).

Finally, I want to refer to Document No.1109-PS, a report according to which scientific institutes that had been saved were ready to taken back to the Ukraine immediately after the hoped- for reentry of the troops. I consider it completely impossible to read anything about looting into this clear text.

Certainly, in the East great quantities of cultural objects of considerable value were destroyed by direct military action or by wanton destruction or looting. It would a fundamental misjudging of the true facts of the case and a great injustice if these losses should be charged to the account of the Rosenberg Einsatzstab (task force) and its chief, for his efforts were in the opposite direction.

3) In the West.

In the West (see Robert SCHOLZ's testimony of 19 May 1946, Document No.Ro.41) the case was different, but, in my opinion, here also the defendant cannot be charged with looting and robbing objects of art. When, in the summer of 1940, the Parisians, with the exception of the Jews, had once more returned, somebody conceived the idea of searching the now o w n e r l e s s apartments, houses and castles for books and libraries and of taking what was interesting of this scientific material to Germany. From various branches of the Wehrmacht (Armed Forces) the report came that especially in Jewish castles there were collections of objects of art which one could not guarantee would remain intact in case of a long occupation. Thereupon, ROSENBERG made the proposal that his Einsatzstab (task force) be allowed to direct its attention at objects of art and to take care of them, which was then ordered by HITLER. What did the task force do with these objects of art? It set up an accurate card -index containing the name of the particular owner of each picture, photographed the objects of art, scientifically appraised them, repaired them expertly insofar as was necessary, packed them carefully and shipped them to the Bavarian castles of Neuschwanstein and Chiemsee. Because of the danger of air raids they were then

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stored in an old Austrian mine. ROSENBERG attached great importance to keeping the objects cared for by the Einsatzstab s e p a r a t- e l y and not mited in with the great purchases which HITLER made for the proposed gallery in Linz.

W a s t h a t l o o t i n g, r o b b e r y, t h e f t? Looting is the indiscriminate and wanton carrying off of objects in situations of general distress and danger, robbery is carrying off by force, theft carrying off without force. In all cases the intent must exist to appropriate the object illegally for oneself or somebody else. What intent did ROSENBERG have? He has never denied that he and his co-workers had h o p e s of the pictures remaining in Germany, perhaps as compensation or as security for the peace negotiations, but his i n t e n t was only directed at confiscating and safeguarding the objects and as has been proved, the question of what should be done with the confiscated items was left open until the end and no decision made on it. It is absolutely certain that ROSENBERG did not have the intention of appropriating the things for himself or anybody else. If ROSENBERG had been a plunderer of objects of art, he certainly would not have made notations concerning date and place of confiscation and name of the owner. As a precaution, however, I should also like to point out that because of the flight of their owners the objects were o w n e r- l e s s and that the question of the lack of owner and the question of the legality of their acquisition by ROSENBERG cannot be judged by normal circumstances, but must be judged according to the extraordinary circumstances of the war. If the Prosecution claims that public and private objects of art were stolen at random, I should like to reply that statement that only Jewish possessions, and indeed as mentioned ownerless objects were confiscated, above all it is

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not true that state-owned property was also touched. Finally, he did not act on his own responsibility, but acted in carrying out a state order and finally I want to ask that the fact be not ignored that ROSENBERG acted without any egotistic motive; not a single picture passed into his private possession, he did not gain a single mark from this transaction which was worth millions and after all, the entire lot of artistic and cultural property has been found again.

GOERING supported the work of the Einsatzstab and, as he admits "diverted" ("abgezweigt") some objects for his own purposes with the Fuehrer's approval. This disturbed ROSENBERG because the Einsatzstab was in his name and he declared that as a matter of principle he did not want to give anything even to the museums, that his task was purely one of registration and safeguarding, that the Fuehrer should have the final decision on these works of art. ROSENBERG could not undertake anything against GOERING, but he ordered his deputy Robert SCHOLZ at least to make an accurate i n v e n t o r y of what was given to GOERING and to have the latter sign a receipt, which GOERING also did. And so it most certainly cannot be proven that ROSENBERG had the intention of illegally appropriating the objects of art for himself or somebody else. Furthermore, Robert SCHOLZ confirmed that ROSENBERG also forbade all his assistants to acquire any object of art or culture, even by virtue of an official appraisal (Document No.Ro.41).

The Prosecution says that with the ROSENBERG Einsatzstab a gang of Vandals broke into the European house of art in order to plunder it in a barbarous way. If one thinks of the tremendous work of drawing up an inventory, of cataloguing, restoration and scientific appraisal and if one finally bears in mind that all these treasures were most carefully stored away and c e r t a i n l y c a m e t h r o u g h t h e w a r b e t t e r t h a n

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would have been the case if the German authorities had not taken care of the I believe that objectively speaking one can use any term but that of "Vandalism".

4) The Furniture Operation ("Moebelaktion").

ROSENBERG is also especially charged with looting furniture, he is alleged to have robbed 79,000 Jewish-owned apartments among them 38,000 in Paris- of their contents and to have taken the loot to Germany. Unquestionably, these measures were taken for the benefit o air-raid victims; in the cities which had been destroyed by air warfare new apartments were built for the homeless.

It was in line with the National-Socialist mentality and must certainly be morally condemned that the confiscation was limited to Jewish property. The essential question, however, is whether the conf cation was at all legal. In all my statements, I have avoided -and I do not wish to do it at this point, either-: Trying to excuse a we legal position with a state of military emergency, for as an expert international law states "the state of emergency is the lever by mea of which the entire body of martial law can be torn off its hinges." But in this case was not national and military necessity the ground for justification, did not air warfare bring "intense and general distress" to Germany? One might object: "The distress could have be ended by unconditional surrender". In my opinion, however, by this reference to unconditional surrender, the abandonment by the Reich of its own existence and independence and its own vital interests, this ground of justification cannot be taken from the defendant. The appropriation of enemy private property took place in application o a right of requisitioning which was extended beyond the legal maxims of martial law and justified by the state o emergency. I venture to assert that this procedure

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of confiscating furniture, in view of the devastating effects of the air warfare against Germany was n o t contradictory to "the custom among civilized peoples","the laws of humanity", and "the demands of the public conscience" (Marten's clause in the preamble of the agreement concerning the laws and customs of land warfare; see SCHOLZ in the aforementioned book, page 173).

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VII.

THE NORWAY OPERATION.

The prosecution characterizes ROSENBERG and RAEDER as the most energetic conspirators of the Norway Operation and later in the same matter calls ROSENBERG a "dealer in high treason". The opinion of t prosecution and also the supposition of the present Norwegian Government (Norwegian report of 3 October 1945, Document No.TC-56) are obviously that the Party's forei r office(Aussenpolitisches Amt) of which ROSENBERG was the head, and Quisling had plotted the war against Norway in a mutual conspiracy. I believe that of all the charges against ROSENBERG hitherto dealt with none has less foundati than this one. On the basis of the few documents which have been submitted to the court, in my opinion the case could doubtless be cleared up in favor of the defendant.

There was a Party "foreign office" (Aussenpolitisches Amt)(A.P. which had the task of informing foreign visitors about the National-Socialist movement, of referring any possible suggestions to the official offices, and otherwise of functioning as a central office of the Party for questions of foreign policy. The special interest, and I may perhaps say the special sympathy of the leading men of the Party and the State was directed at the Nordic countries; it was in this direction that the A.P.A. placed the main emphasis on the field of c u l t u r a l policy. The already existing

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Nordische Gesellschaft (Nordic Society) was expanded, the birthdays of great Nordic scientists and artists were observed in Germany, a great Nordic music festival was held, etc. / The relations first took on a really political note with the appearance of QUISLING whom ROSENBERG had seen for the first time in 1933 and who then in 19 -i.e. six years later- looked up ROSENBERG again after the convention of the Nordic Society in Luebeck; the former spoke of the danger of European entanglements and expressed the fear that Norway was in dar of being drawn into them. He then feared above all a partitioning of his country in such a manner that the Soviet Union would occupy the northern part and England the southern part of Norway.

QUISLING again appeared before ROSENBERG in Berlin in December 1939. The latter arranged for a conference with the Fuehrer. HITLER declared that he would by far prefer to have Norway remain completely neutral and that he did not intend to extend the theater of war and involve more nations in the conflict, but he would know how to defend himself against a further isolation of, and further threats against, Germany. In order to counteract the increasing activity of enemy propaganda, QUISLING was promised financial support of his movement, which was based on the Pan-Germanic idea.

The military treatment of the questions now taken up was assigne to a special military staff; ROSENBERG was to deal with the political aspect and he appointed his assistant SCHEIDT to maintain liaison be ween him and QUISLING. -HAGELIN, a Norwegian confidential agent of QUISLING's, in January 1940 gave ROSENBERG some more disturbing repor on the feared violation of neutrality by the Norwegian government and ROSENBERG passed them on to HITLER After the "Altmark" incident, HAGELIN, who moved in Norwegian governm circles, intensified his warnings. The Allied had already begun to study the Norwegian

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seaports for disembarkation and transportation possibilities; in any case the Norwegian government would be satisfied with protests on pape and QUISLING sent the message that any delay in undertaking a counter -action would mean an exceptional risk. R O S E N B E R G a g a i n h a n d e d t h e r e p o r t s i m m e d i a t e l y t o H I T- L E R . It he had n o t done so that would actually have been treaso to his country. The German counter-blow followed on 9.4.1940 and ROSEN BERG learned about it from the radio and newspaper like any ordinary citizen. A f t e r h i s a b o v e - m e n t i o n e d r e p o r t w h i c h h e m a d e i n t h e l i n e o f d u t y, ROSENBERG d i d n o t p a r t i c i p a t e in e i t h e r d i p l o m a t i o r m i l i t a r y p r e p a r a t i o n s .

Should there still be any doubt that ROSENBERG was only an agent who forwarded information to HITLER and not an instigator, conspirator or traitor in the Norwegian case, I should like to refer to two documents. First, to Document No.C-65, ROSENBERG's file notes concerning QUISLING's visit. Obviously, it is the information on QUISLING which had been requested by HITLER of ROSENBERG. If ROSENBERG had been on cl terms with QUISLING, he certainly would have wanted to inform HITLER about it. ROSENBERG had only heard of a fantastic and impracticable plan of QUISLING's for a coup d'etat (occupation of important central offices in Oslo by sudden action, supported by specially selected Norwegians who had been trained in Germany, then having the German fleet called in by a newly-formed Norwegian government). However, an earlier report of QUISLING appeared less fantastic to ROSENBERG; according to which -names were given- officers of the Western powers travelled through Norway as consular officials, ascertained the depth of the water in ports of disembarkation and made inquiries into the cross-sections and heights of railway tunnels.

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This was the true and only reason for everything ROSENBERG did in the Norwegian matter. The second document is the report concerning: "The Political Preparation of the Norway-Operation" (Document No. 004-PS, GB-1305), a report from ROSENBERG to Hess of 17 June 1940; in this inter-departmental report also there is nothing which deviates from ROSENBERG own trustworthy statement and which .. would let him appear as an instigator of war and a person guilty of high treason.

ROSENBERG was not called in at any political or military discussion concerning Norway. Thus, what criminal act did ROSENBERG commit? Was it criminal that he tried "to gain influence in Norway" (TC-56) or that with his knowledge subsidies were given to QUISLING by the Foreign Office? Finally, I should also like to point out that later on, after the operation had succeeded, ROSENBERG in no way was entrusted with an office or function with regard to Norway, that even the appointment of a Reich Commissioner for Norway was carried out without consulting him.

In connection with this I shall briefly mention the case of the Rumanian minister GOGA. The latter visited Rosenberg who gave a friendly reception to a friend of Germany. The fact that in the matter in merging of the followers of GOGA and Professor CUZA, ROSENBERG recommended to the latter that he give up the radical anti-Jewish points of his program, cannot seriously be regarded as evidence against him. Otherwise, ROSENBERG did not interfere with the purely Rumanian party which bore the name "Christian-National Party" and was strictly loyal toward the supreme head of the state and proceeded along purely legal channels. After the Rumanian king dismissed GOGA, whether as a result of the demands of the British and French ministers or for other reasons further relations ceased. That was in 1937!

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Antonescu did not know Rosenberg and had no relations whatsoever with him.

I remember moreover that the world does not object when, for instance, the representatives of social-democratic parties from all countries meet at international congresses. How can we blame a German who receives foreigners who are well disposed to Germany and assures them of his sympathy.

VIII.

Persecution of the Church.

The prosecution maintains that Rosenberg together with Bormann issued the orders for religious persecutions and induced others to participate in those persecutions. However, not a single order of th kind is known. There were presented only writings of Bormann, partly to Rosenberg, partly to others, from which no charges against Rosenberg can be drawn. On the contrary, Rosenberg was repeatedly reproac as once when in the presence of Hitler he praised a book by Reichsbishop Mueller (Doc.No.100-PS, USA 691). Another time, when Rosenbe gave Reichsbishop Mueller instruction to work out directives for thoughts regarding religious instruction in schools (Doc.No.098-PS, USA 350). Once again when Rosenberg promoted a strictly Christian piece of writing by General von Rabenau.

As a witness Rosenberg declared himself (Prot.p.1874) that he always declined propaganda advocating the withdrawel from the Church and never called for state and police measures against his clerical and scientific opponents, and particularly he never used the police for suppressing those who were opponents of his "Myth." In December 1941 he had

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issued, as Reich Minister for the occupied Eastern territories, an edict for church toleration (Doc.No.1517-PS, and 294-PS, USA-185); with arrests, the deportation of priests, and persecution of the Church Rosenberg had nothing to do. He had no part either in the negotiations with the Vatican over the Concordat or in the assignment of the Protestant Reich Bishop: but neither did he take any part in measures which were hostile to the Church, and which were lat carried out by the police. He never participated in any other administrative or legislative anti-clerical measures.

In my opinion it is impossible, for lack of documentary evidence, to construe from what Rosenberg thought and said about religious and philosophical matters that he conspired towards a political suppression of religion. The only documen (130-PS,USA-672) pointing in this direction was withdrawn by the prosecution itself, before I saw myself obliged to draw attention to it as a pamphlet drawn up against Rosenberg. His book "The myth of the 20th century" which is allegedly written for the reshaping of confessions in the spirit of a German Christianity, is moreover chiefly addressed to those who have already broken with the Church. "No consciously responsible German", says Rosenberg on one occasion in it, "should suggest withdrawal form the Churches to those, who are still faithful members of them" (Doc.No.Ro 7, Doc. Book I, p.122).- Another time: "May science never have the power to dethrone true religion" (See the sam page 125). His writings are not addressed to the faithful church-goers of today in order to hinder them in the course of their spiritual life, but to those who have already discarded their faith. (Doc.No.Ro 7, Doc. Book I, p.125).

In his speeches he declared that the Party is not entitled to establish norms in metaphysical matters

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which deny immortality etc. Having been assigned to supervise ideological education he said explicitly in his Berlin speech of 22.3.1934: "No national-socialist is allowed to engage in religious discussions while wearing the uniform of his movement," and he declared at the same time that all well-disposed persons should strive for a pacification of the entire political and spiritual life in Germany (Ro 7a, Doc. Book, page 130). That in this respect, too, things developed on different lines is not due to will and influence of Rosenberg.

Moreover, I need to make only a brief allusion to the fact, that it is a question of the 1000 year-old problem of relations between the clerical and so-called wordly powers. The struggle of emperors, kings and popes in the middle ages; the French revolution with the shooting of priests; Bismarck's clerical controversy; the secular legislation of the French republic under COMBES. All these were things, which from the standpoint of the Church are persecutions, but from the standpoint of states and nations are termed necessary measures. The Soviet Union has kept the Church for 25 years under the heaviest pressure, her buildings are often given to totally different uses. And it had to be just Rosenberg, who as minister for the East reestablished the freedom of all religions by an edict of tolerance!

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Ideology and world politics.

Ideology and Education have been nothing but a means of obtaining power and consolidating it. Uniformity of thinking has played an important part in the program of the conspiracy. The formation of the Wehrmacht has only been possible in conjunction with the ideological education of the nation and party, so says the prosecution (Brudno, on 9-1-1946, Prot. p.2253 ff.) And continuing its attacks against ROSENBERG, the prosecution continues: of ROSENBERG's ideas formed the foundation of the national-socialist movement. ROSENBERG's contribution in formulating and spreading the national-socialist ideology gave foundation to the conspiracy by shaping its "philosophical technique."

I think that one will have to take care, in judging ROSENBERG's case, not to yield to certain primitive ways of thinking and become a victim to them. First of all an exaggeration of the conception of ideology and an imprecise use of that conception. At best it was a political philosophy, which went hand in hand with Hitler's political measures and which Hitler himself preached in his book "Mein Kampf", but it was not an "ideology" in an all-embracing sense. It is true that national-socialism endeavored to create a spiritual philosophy and world ideology of its own, but it had not reached that stage yet. ROSENBERG's book "The myth of the 20th century" is an attempt in that direction, being a personal confession, without any suggestion of political measures. So his philosophy cannot have formed the ideological basis of national-socialism. Besides this there is a total lack of proof that a straight spiritual line, a clear spiritual causal connection exists between the conceptions of Rosenberg and the alleged and actual crimes. If one goes to the trouble of looking through the book "Myth",

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one sees immediately that though there is some philosophizing in the national-socialist way, it would be however/be/ pure fiction to affirm that there is any dogmatic formulation of an aggressive program in this book and that it is a foundation for the activities of the responsible leaders of the German Reich in the world war.

Another mistake of national-socialism was perhaps the boundless unification and simplification; people were made uniform, thinking was made uniform, only one uniform type of German was left. Presumably there was also only one national-socialist way of thinking and only one national-socialist ideology. But in spite of this, as we see today, the leaders were frequently of different opinions/in/ essential questions, I will recall the mere questions of Church and Christianity, and that of the policy in the East.

Here in the Tribunal, too, there seems to be a danger of accepting this way of thinking, of observing everything through the spectacles of uniformity and of saying: One idea, one philosophy, one responsibility, one crime, one penalty. Such a simplification apart from its primitive nature would surely be a great injustice toward the defendant Rosenberg.

Finally, when one hears how the prosecuting authorities attack "German Christianity", the "Heathenish Bloodmyth", pillorying Rosenberg's expression." the Nordic blood is the very mystery, which superceded and overpowered the old sacraments", one may close one's eyes for a moment and picture oneself at a session of the Inquisition in the Middle Ages where they are about to sentence Rosenberg as a heretic to the stake. Surely nothing can be farther from the Tribunal's mind, than to harbour thoughts of intolerance, as here in spite of all attempts by some of the prosecutors, to affirm that it is not ideologies but crimes which are being debated here.

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In the defendant Rosenberg's case we are debating: Whether by his teachings he did wilfully prepare and further a crime. The prosecuting authorities have brought forth arguments to prove this, but have not done so, and I can prove the opposite merely by pointing out Rosenberg's activities in the East. Had he been the bearer and apostle of a criminal idea, he would have had an opportunity, such as no criminal has ever had yet in world history, to indulge in criminal activities. I have stated explicitly that in his case it was just the opposite. So when the bearer and apostle of an idea, himself has the greatest of opportunities and yet behaves morally, then his teachings cannot be criminal and immoral either, and above all he cannot be punished then as a criminal on the ground of his teachings. What criminally degene-rate persons practised as alleged national-socialism cannot be laid to the charge of Rosenberg. Moreover, Rosenberg's speeches in three tomes, which express what he taught during the course of 8 years bear witness to the honorable nature of his endeavours.

Thus if we give up the false conception of uniformity: One party, one philosophy, one ideology, one crime, then in view of the indisputable fact that Rosenberg himself never pursued a policy of extermination, destruction and enslavement in the East, we shall have to admit that the facts of the terrible central executive orders and of Rosenberg's philosophy are not identical and on these grounds alone the conclusions of the prosecuting authorities are invalid.

Karl Marx teaches that historical events, and political social reality are conditioned by the mere casual play of materialistic forces. Whether Marx acknowledges the independent influence of man and ideas in history is at least doubtful. On the contrary Rosenberg stresses emphatically the influence and

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the necessity of the highest ideas in the history of peoples But ROSENBERG does not overlook the fact that every event in history is the result of a totality of acting forces. The will, the passions and the intelligence of the people involved work together to form a historical process which cannot be calculated in human terms. It has already been pointed out, that just as little as VOLTAIRE's and ROUSSEAU's ideas can be recognized as the causes of the French revolution, and the slogans of liberty, equality, and fraternity be taken as the cause of the Jacobine terror, as little as one can say MIRABEAU and SIEZE had wanted or plotted such blood-thirstiness, just as little can one ascribe to ROSENBERG as moral or even criminal guilt what became of National-Socialism during its development through the decades. In other words, I believe it is as unjust as it is unhistorical to ascribe today in retrospective the negative aspects of National-Socialism which were connected with the terrible collapse to a plan which had been desired from the beginning, a plan which also originated in ROSENBERG' ideas.

Therefore, in considering ROSENBERG's work the mistake of a standardization which does not correspond to reality is added to the furth mistake of mechanization, there is neither a mechanical man nor mechanical history; and, finally, the construction of the indictment is also an absolutely negative one, it views the defendant from the standpoint of political polemics and is impressed by the excitement of peopl in these most excited times. I must briefly take exception to this distor tion of the defendant's mental traits.

The mental state of the period after the first world war and even of the preceding period which gave birth to the defendant's ideas are known to all of us only too well: The mental-psychic uprooting of

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man by the technical age, his hunger and thirst for a new spirit and a new soul; "liberty" was the slogan and "a new beginning" the impulse which directe the will of youth. Its longing and enthusiasm were aimed at nature. The thoug and wishes of this generation were led into p o l i t i c a l paths by the contrast between rich and poor, which youth considered unjust and which youth sought to bridge through Socialism and the fellowship of the people; in Germa the development on political lines was further enhanced by the national misfortune of 1918/19 and the Treaty of Versailles; which was likewise felt to be unjust. The idea of a future building of German history through the union of nationalism and socialism, glowed unconsciously in the hearts of m i l l o n s as the undisputed, tremendous success of National-Socialism proves. The psychic foundation was the will for self-preservation and love for one's fellow country men and for the people itself, which had already had to suffer so much torment and misery in history.

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The will for self-preservation and love for one's own people together with the whole complex of National-Socialist ideas then developed in an inexplicable manner into a furious conflagration, the most primitive considerations of common sense were eliminated just as in a delirium; in complete delusion everything was put at stake and lost.

The questions his conscience put to him however/and which he asked himself time and time again, are whether he could have done m o r e for what he thought and upheld as just and worthy, where he neglected essential things, where he fell short of requirements, what negative events, in so far as he had knowledge of them, he should have attended to with more effort. Can such questions which every person asks when he is crushed by disaster, be considered as evidence for his objective guilt ? I do not think so.- - -

On 17 January 1946 (transcript p.2765/66) the French chief prosecutor, M.de MENTHON stated the following which I quote: "We are rather facing systematic criminality which directly and necessarily derives from a monstrous doctrine with the full will of the leaders of Nazi-Germany. The crime against peace which was undertaken immediately is derived from the National-Socialist doctrine." (End of quotation). To refute this assertion I must briefly present this doctrine.

I have classified the National-Socialist ideology - in full accord with scientific opinions - under the so - called new - romanticism. This tendency of the time which was grounded in fate and the necessities of history had gone through the whole civilized world since the turn of the century as a reaction against rationalism and the technical age. It differs from the old romanticism in that it adopts the naturalistic and biological consideration of man and history.

It is borneup by a confident faith in the value and meaning off life and the whole of reality. It does not glorify feeling and the intellect, but the innermost workings of man, his heart, will,and faith. This philosophy receives its National-Socialist stamp through the emphasis which is placed upnn the mysterious importance of peoples and races for all human experience and work. It is in the people, in the common possession of blood, history, and culture that we find the real roots of trength. Only by participating in the movements of a people and its strength does the individual serve himself and his generation.

ROSENBERG'sscientific contribution to the racial ("voelkisch") ideology consists in his description of the rise and fall of great historical figures, who were born of races and peoples who set up definite standards in all fields of language, custom, art, religion, philosophy, and politics. According to ROSENBERG the efforts of the 20th century to establish a form for itself are a struggle for the independance of the human personality. In ROSENBERG's opinion then essence is the consciousness of honor. The myth of national honor is at the same time the myth of blood and race; th race produces and supports the maximum value of honor. Therefore, the struggle for the maximum value of honor is also a spiritual struggle with other systems and their maximum values. Thus ,intuition stands against intuition, will against will. ROSENBERG expresses this thought in the following manner ("Myth", Introduction, pages 1 and 2): "History and the task of the future no longer means a struggle between classes,it will no longer be a stuggle between church dogma and dogma, but the dispute between blood and blood, race and race, people and people. And this means: A struggle between psychic value and psychic value". Consequently, Rosenberg had, in any case, no ideas of genocide as Raphael LEMKIN opines in "Axis Rule in Occupied Europe", page 81, where he ends the above quotation after the words "race and race, people and people, but he believed in a struggle between psychic value and psychic value, in other words, spiritual controversy.

I mention this spiritual tendency in order to explain the peculiar fact in National-Socialism that political considerations born of the intellect often the pathos of will and faith. In ROSENBERG's case this danger did not appear so much. In making everything revolve around the "soil", i.e. the fatherland, and its history and peasantry as the life-growing forces from which spring the essence of a race, he remains in the sphere of life's realities. Perhaps, unaware of it himself, he was, nevertheless, borne upwards by the current.

A question arises, as to the effects this

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ideology had in political life ?

It is clear that the emphasis on will and faith gave special weight to political demands. After the Treaty of Versailles the political demands of Germany were aimed at recovering freedom and equality among the peoples for her great power which was everywhere hemmed in. This had been the objective of German statesmen already before HITLER. The other great power had certain misgivings about recognizing Germany again as a great power. ROSENBERG fought to do away with these misgivings. His weapon was his pen. The Tribunal allowed me to present in evidence an excerpt of ROSENBERG's speeches and writings. I submitted it in my Document Book I, Volume 2. In view of the quantity of material and of my intention to submit only the most important matter, through lack of time, I depend on the court's being familiar with my document book. In the first place I wish to call attention to the effects which these books had on German youth. I may recall the witness von Schirach's testimony. I repeat verbally: "At conventions of youth-leaders at which he spoke once a year, ROSENBERG chiefly chose educational, character-building subjects. I remember he spoke for instance on loneliness and comradeship, personality and honor etc. At these convention of leaders he did not deliver speeches against Jews. As far as I remember, he did not touch either on the confessional problem of youth, in any case to the best of my memory. Mostly I heard him talk on such subjects as I have just mentioned." (End of quotation.) The attitude of youth was actually better than before the taking-over of power. Idleness, the root of all evil, had ceased and had been replaced by work, the fulfilment of duty, the aiming at ideals, patriotism and the will to go ahead. It was a fatality here, too, that through HITLER's

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policy these values were used in the wrong manner.

The charges by the prosecution that ROSENBERG was the advocate of a conspiracy against peace, of racial hatred, the elimination of human rights, of tyranny, a rule of horror violence and illegality, of a wild nationalism and militarism, of a German master race, I could already refute by pointing to the excerpts from the "Myth of the 20th Century" which the prosecution itself has submitted as evidence for the truth of its assertions. In reply to this, in order to refute this assertion by the prosecution I want to point in particular to the following facts:

To prove ROSENBERG's honest struggle for a peaceful living together of the peoples I wish to refer to his speech in Rome in November 1933 before the Royal Academy (printed in "Blood and Honor", Document No.Ro.7b, page 150). In his speech in Rome, ROSENBERG pointed to the fateful significance of the four great powers and proclaimed, - I quote his words: "Therefore he who strives in earnest to create a Europe which shall be an organic unit of with a pronounced multiplicity of form and not merely a crude summation, must acknowledge the four great nationalisms as given to us by fate and must, therefore, seek to give fulfilment to the force radiating from their core. The destruction of one of these centers by any power would not result in a "Europe" but would bring about chaos in which the other centers of culture would also have to perish. Reversed: It is only the triumph of the radiations in those directions where the four great forces do not come into conflict with each other which would result in the most dynamic force of creative thinking and organic peace, not an explosive forced situation such as prevails today, but it would then guarantee the small nations more.

security than appears possible today in the struggle against elementary force". (End of quotation.)

To this line ROSENBERG, as chief of the Foreign Office of the Party, remained true. Unfortunately, he could only work for it/through his word. No witness could confirm in this court room that ROSENBER had any influence on the actual foreign policy, whether it was directed by NEURATH, RIBBENTROP, GOERING or HITLER himself. Neithe in the Austrian, nor in the Czech, nor in the Polish, nor in the Russian complex has his name been mentioned in connection with the charge of participation in aggressive wars. Everywhere he was plac before accomplished facts. In the war against the Soviet-Union he received his orders only when the war against Russia had already b declared an acute possibility. He did not stir up the Norwegian campaign, but passed on personal information in accordance to his duty.

Now, as regards ROSENBERG's speeches and writings on the probl of general foreign politics he advocated the "Anschluss" (union) o the Austrians who had been forcibly excluded from the Reich as a demand born of the right to self-determination which had been proclaimed by the Allies themselves. The revision of Versailles was a postulate of justice against a violation of the treaty of 11 Novem 1918. To advocate a German Wehrmacht was, in view of the non-disa of the other powers, a defense of the solemnly promised equality o rights.

From the standpoint of justice -and this is what Adolf HITLER personally told R o s e n b e r g- it is not the affair of other nations to especially champion the living rights of the German peop but it is the duty of the German nation itself. For this purpose i needed to establish a firm unity, and to over come the social stri which made everything unsafe, and it needed a Wehrmacht, and / these things all t together, would only then make the Reich r e a d y f o r a l l i a n c e s again.

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Those were the decisive factors, which guided Rosenberg.

I shall now take up the accusation of racial hatred. Rosenberg's opinions in regard to the race question were the result of racial research of internati ons stated scientists. Rosenberg repeatedly asserts (I refer again to the opini-in Docume Book I, Volume 2) that the purpose of his racial political demands is not contempt of a race, but respect for it. "The leading moral idea of an approach to world history based on the laws of heredity belongs to our times and to our ge neration, being in full accord with the true spirit of the modern euganics movement in regard to patriotism, i.e. the upholding and expansion of the spiritually, morally, intellectually and physically best hereditary forces

for our fatherland; only in such way can we preserve our institutions for all future times." These words are the leading idea of his demands, though their originator was not Rosenberg, but Henry Fairfield Osborn, Professor at Columbia University who wrote them about the work of his collegue in science, Madis Grant: "The Decline of a Great Race". This research led long before the existance of the Third Reich to eugenic legislation in other countries, in particular to the American immigration law of 26 May 1924 which wasaimed at a str reduction of immigrants from Southern and Eastern Europe while favoring those the North and West of Europe.

For Rosenberg it was a question of spiritual strengthening and consolidation o the German nation, indeed of the Aryan race. He would like to have his ideolog considered in that light, above all his "Myth of the 20thCentury". His preachin of the significance of race in history did not call - I remark it again - for race contempt, but for considera- tion/ and respect of the race and he demanded the acknowledgment of the racial idea only of the German people, and not of other nations.

He considered the Aryan nations as the leading ones in history. And i in so doing he somewhat underestimated the value of other races, as Semitic ones, he, in his praise of Aryan races did not think of the German nation alone, but of the European nations in general. I point out his speech in Rome of November 1932.

I am keeping within the framework of historical truth in pointir to the fact that anti-Judaism is not an invention of national social For thousands of years the Jewish question has been the minority prob (Fremdenproblem) of the world, It has an irrational character which humanly cannot be understood. Rosenberg was a convinced anti-Semite, who in writing and speech gave expression to his convictions and the cause. I have already mentioned that even such different personaliti as von Papen, von Neurath, Raeder still are of the opinion that the predominance of the Jewish element in the entire public life had reached such proportions that a change was bound to come. The concre result of that predominance and the fact that the Jews in Germany wh attacked knew how to repay in kind, sharpened the anti-Semitic fight before the accession to power (of the National-Socialists).

I wanted to present to the Tribunal a selection of Jewish literary attacks on the national feelings at that time, but the Trib ruled it out as irrevelant; as these writings were not introduced as evidence I cannot speak about them. It is, however, an injustice to Rosenberg to assert that blind hatred of the Jewish race has driven him into that controversy. He had before his eyes concrete facts of the seditious activities of Jews.

It appeared as if the party program of placing Jews under a lar scale law for aliens would be realized.

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It is true that Goebbels at that time called for a day's boycott of Jewish stores. ROSENBERG, however, declared in his speech of 28 June 1932 on the anniversary of the Versailles Treaty in the assembly hall of the Reichsta in the Kroll Opera: It was no longer necessary that in the capital of the Reich 74 % of all lawyers should be Jews and that 80 to 90 percent of the physicians in Berlin hospitals should be Jewish. Some 30 % of Jewish lawyers in Berlin would amply do. In his speech on the Parteitag in September 1933 ROSENBERG stated in addition (I quote): "In the most chivalrous way the German government has excluded from the percentage stipulations those Jews, who have fought for Germany at the front or who have lost a son or a father in the war" (Doc.No.Ro 7b supplement, Doc. Book I, p.153a). In his speech at the Kroll Opera ROSENBERG gave the reaso for this measure, saying that an entire nation should not been discriminated against, but that it was necessary for our younger German generati who for years had to starve or beg, to be able to obtain bread and work, too. But despite his strong opposition to the Jews he did not want the "extermination" of Judaism, but advocated as the nearest goal the politic expatriation of Jews, i.e. by placing them under a law and protection fo aliens. In additions he granted to the Jews a percentage access to non-political professions which still by far exceeded the actual percentage Jews in the German population. Of course, his final goal was the total emigration of the Jews from Aryan nations. He had no understand in of what great a loss to the Aryan nations themselves such an emigration would be in cultural, economic, and political respects. But one must admit that he meant that such emigration would prove useful for the Jews themselves, because they would be free from anti Semitic attacks and then because

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in their own settlement they may live unhampered according to their own ways.

The dreadful development which the Jewish question took under Hitler, and which was justified by him as being a reaction against the policy pursued by the emigrants, was never more regretted than by Rosenberg himself, who blames himself for not having protested against the attitude of Hitler, Himmler and Goebbels, as much as he protested against Koch's influence in the Ukraine. Rosenberg also does not hesitate to admit that his suggestion to Hitler to shoot 100 Jews instead of 100 Frenchmen after the recurring murders of German soldiers was an injustice born under a momentary feeling, - despite his belief in its formal admissibility - because from the purely human standpoint the real basis for such a suggestion was lacking, namely the active participation of those Jews. I am mentioning this event again, as it is the only instance when Rosenberg wanted retribution by the death of Jews. On the other hand one must insist with greatest emphasis that there is no proof of Rosenberg's being aware of the extermination of 5 million Jews. The prosecution is blaming him for making preparations for an anti-Semitic congress as late as 1944, which did not take place only because of the course of the war. What sense could such a congress have had when Rosenberg knew that the majority of the Jews in Europe had been already exterminated?

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Rosenberg had no faith in democracy because it meant for Germany a split into numerous parties and a constant change of governments, making finally the formation of an efficient government impossible. Another reason for not having faith in democracy was

that non-German democratic powers did not stand by their democratic principles in some cases when they could have been of benefit to Germany, for instancesin 1919 when Austria was willing to be annexed to Germany and later on at the referendum in Upper Silesia. But ROSENBERG did not turn towards tyranny for that reason. To paragraph 25 of the party program he said in his comments on page 46: "That central power - the Fuehrer's power is meant - should have as advisors representatives of the people as well as trade chambers grown out of organic life" (Doc. Book .III, page 6 - Doc.No.Ro.34). And in his speech in Marienburg on 30 April 1934 "The Order of the German State" he said: The national-socialist state must be a monarchy on a republican foundation. From that standpoint the state will not become a deified purpose in itself, neither will its leader become a Caesar, a God or a substitute for God(Doc. Book I, p.131, Doc.No.Ro.7a).

In his speech "German Law" of 18-12-1934 ROSENBERG stressed: "In our eyes the Fuehrer is never a tyrannical commander" Doc.Book I, p.135, Doc.No.Ro 7a).

Only in such expressions was a protest against the development of tyranny possible.

The development went beyond ROSENBERG and degenerated. ROSENBERG himself learned it while being Minister for the East. ROSENBERG was an idealist, but he was not the unscrupulous man who inspired the state and the Fuehr to commit crimes. I believe, therefore, that he should not be included in Mr. JACKSON's accusation (page 8), that ROSENBERG belongs to those who have been in Germany "the very symbols of race hatred, of the rule terror and violence, of arrogance and cruel power."

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In looking over ROSENBERG's writings, one more often finds statements and expressions which give a decided impression of toleran

He says, for example, in his "Myth", page 610, of the national church, which strove for: "A German church cannot pronounce compulsor dogmas which every one of its followers is compelled to believe, ever at the risk of losing his everlasting salvation." In his speech "Ideol and Dogmatics" on November 5, 1938, in the University Halle-Witteber he demanded tolerance toward all denominations with the demand of "i respect for every real denomination" (Doc.Book I, page 156, Doc.No. 7c) and in his speech "On German Intellectual Freedom" of July 6,19 he also spoke up for the freedom of conscience (Doc.Book I, page 140, Doc.No.Ro.7a). There was no document presented which contained a proposal by ROSENBERG for criminal persecution against one of his numerous ideological opponents, although he may have been prompted t do so by their sharp attacks on his opinions.

Further, the Prosecution accused him of militarism and an exaggerated respect for the soldier (Soldatismus).ROSENBERG was indc an admirer of the soldier's life and his heroic attitude toward life but he also admired the peasant's standards as the basis of the nati character (Volkstum). He promoted the creation of a people's army (Volksheer) , first as the outward expression of Germany's unity, a at home for the purpose of strengthening and educating the people. H ever, he denies that in this connection he thought of world conquest On this point I can refer to his speech "Germany's Position in the World" of October 30,1933. There he offered peace to Russia on the occasion of the German withdrawal from the League of Nations. (Blood and Honor", Doc.Book I, page 147). I shall quote this part for it proves also that National-Socialism did not want to interfere in the affairs of other countries: "We are ready at any time, to maintain absolutely correct relations with Soviet Russia, because we,of cours do not necessarily want to change the valves of an ideology in the field of foreign policy and foreign relations."

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And in the same speech he emphasizes that the avowal of an ideology, which he calls ethnology is"not meant to be a lecture on racial hatred, but a lecture on racial respect" ("Blood and Honor" page 377

Mr.Jackson called ROSENBERG's nationalism a "wild" one. He was passionate. But ROSENBERG wanted thereby to overcome the class-confl among the people/their life, and for a clearer understanding of the facts it may also be said, that he is to be understood as a phænomer of psychic compensation, as often appears in a conquered people. In addition, Germany, being in the middle of Europe, was always exposed to so many political and military dangers that the military circles Germany, particularly after the entrance into the Ruhr in 1923, were necessarily particularly sensitive on national questions. As a Germ Balt he was brought up in a national way of feeling that expected mo from self-assertion and mobilization for defense than from the dis-appointments of the international negotiations carried on up to that time. He was always ready for an understanding based on equal repres ation (Doc.No.003-PS, USA-603).

ROSENBERG has been further reproached with anti-Christianity ar neo-paganism. It is true this reproach was not raised on account of his theory owing to the persecution of the Christian religion in all its forms which resulted from it. ROSENBERG was an opponent of Christianity in its -as he means- present historical forms, the same as of Jewry. In place of Christianity he wanted to strive for an idealistic, racial and ethnically conditioned religion, an emotional religion of blood and soil.

He thereby attacked Christianity and Jewry theoretically, and hoped that the Christian churches would languish among the German people, but one will always have to admit that ROSENBERG staged no violent persecution.

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He carried on this battle with intellectual weapons. Here, too, since he expected freedom of conscience for himself, he advocated freedom of conscience for others, and pointed out that with his "Myth" and his new religiousness he did not wish to confuse the church believer but to create new spiritual ties for those, too, who had ceased to b believers in the church.

The word master race, to my knowledge, does not appear in ROSEN BERG's writings, since it also does not fit into ROSENBERG's ideolog which proceeds from the race as a general law. Therefore, ROSENBERG speaks of the Nordic, Mediterranean. Dinaric race, in relation to races which are biologically different, not in the sense of an arroga judgment as to value, but in the sense of racial facts, in the sense of honoring the entire human race of Europe.

As concerns the Party program, despite the assertions of the prosecution, it was not he, ROSENBERG who designed it. Like so many other things, the meaning and action of the Party program, have also been overestimated and exaggerated. It was one of the first deeds of the National-Socialist government to design a reconstruction program, of which the defendant FUNK said that almost any other liberal or democratic government could accept it also. In place of breaking the interest servitude, the reinstatement of a sound money and credit system was demanded. I could go on quoting a number of examples for instance, the program of foreigners' rights for the Jews, which was not carried out. The party program was not adhered to subsequently, either in the positive or the negative sense. Rules were simply enacted as in other states, too, based on the necessities of the moment.

The entire ideology of the journalist and author ROSENBERG becomes intensified and is rendered more menacing

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to peace according to the prosecution by the fact that ROSENBERG was the deputy of the Fuehrer for the supervision of the entire intellectual and ideological education of the NSDAP. How did this assignment come about and what were the circumstances concerning it? On the basis of his previous experience in the educational work of the Party, its organizational leader asked Rosenberg whether he would not undertake a common intellectual project. ROSENBERG answered in the affirmative if the Fuehrer wished it so. Whereupon on the 24th of January 1934 the Fuehrer appointed him the leader of the designated office. It was a party office and had nothing to do with the schools (as is erroneousl assumed). The office had no right to issue directives to national offices; even any possible correspondence with them had to be sent only via the party office. Neither did it have any right to suppress books, etc. Even a right to issue directives to the party was not granted the more so since the branch school directors were also subordinated to the Reichsleaders (SA.SS.HJ.). Therefore, from the very beginning ROSENBERG did not consider his work as that of an intellectual police, but as an executive, unifying work, as the centr point of the expression and realization of the factual and personal power of convincing and of initiative.

He had no offices in the various Gaus, not even any separate representatives; he accepted the Gau Education Leader as his deputy at the same time in order to maintain a connection with practical education in the country.

The office had many things to review in the course of time, yet in the beginning it remained quite limited.

It became subdivided into various spheres of work: teaching and education proper, cultivation of literature, the arts, cultural and general problems. About twice a year, for the purpose of comparin teaching experiences, ROSENBERG called together the so-called "Workin Community for the Instruction of the Entire Movement".

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In it were represented the educational deputies of the political leadership and its various subdivisions. They reported on their work and expressed their suggestions. On the basis of these suggestions, ROSENBERG lectured frequently in the Gaus on appropriate topics, and likewise induced his collaborators to handle such questions in all the subdivisions. These are the two educational meetings which the Prosecution (Prot.p.2265) mentioned in its brief by reason of their alleged "broad influence on the community schools" as an indication of criminal activity. This generally executive work found expression particularly in the periodicals of the offices of ROSENBERG's department. At first in the "N.S.Monthly Booklets", which after 1933 acquired a gradually increasing polemical-political content in the interest of handling historical, cultural, scientific topics. "Art in the German Reich" achieved special significance, as it simply offered the most beautiful examples in the way of contemporary plastic art, excellently presented without discussion. The "Buecherkunde" offered a monthly cross-section of writings and literary contributions. The monthly periodical "Music" devoted itself above all to serious art, the cultivation of the German classics, and without any pettiness toward new creations.- The journal "Germanic Heritage" published contributions on research in early history, the "German Folklore" was devoted to games, folk songs, peasant customs. "German Dramaturgy" described the ambitions and problems of the contemporary theater.

Besides, there were special exhibitions of the lifework of great artists in ROSENBERG's exhibition building in Berlin, book exhibits in various cities.

It is simply not true if the Prosecution declares that ROSENBERG used his assignment to sow hatred. The essence of his entire work after 1933 was towards a deepening and large-scale promotion of new positive talents.

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Political polemics in these seven years has almost entirely disappeared. But for the difficulties in the language, one would find in glancing over the journals and speeches, an honest great effort, whether ROSENBERG spoke to the youth or to the technicians, teachers, lawyers, workers, professors, women, at meetings of historians or the Northern Society. (Nordische Gesellschaft).

Heads of his offices were instrumental in publishing and promoting valuable works of art: Classics of music, history of the German ancestry, world political libraries, development of the German peasantry, and others. In the present passionate days one is not interested to know of this side of a life work, and I only touch upon it but wish to emphasize that it was just that which seemed to ROSENBERG, since 1933 potentially, as the most essential part of his work, as he likewise intended to devote himself in his old age entirely to the scientific-cultural research and teaching. But about this a few more words later.

Contrary to some, at first necessary, then in the evaluation of individual persons perhaps rather petty judgments, ROSENBERG advocated at the universities of Munich and Halle the right of examining new problems of our times as well as the independence of scientific thinking. He declared, we would have to "feel as intellectual brothers of all those who once in medieval times raised the flag for this free research" (Doc. Book I, page 134). Against attempts to identify certain scientific physical theories with the Party, he protested in an official declaration rejecting this danger of hair-splitting. It is not the task of the national-socialist movement, said he in a speech about KOPERNIKUS and KANT on February 19, 1939, to make any regulations for research other than necessarily connected with our philosophy of life" (Doc.Book I, page 173).

When certain trends towards quantity, peak figures representing the number of visitors, etc., appeared within the otherwise desirable progress achieved by the DAF he unequivocally interceded in favor of an emphasis of the personal element. He rejected this idea of "mass production" in an address to youth, with the words: "One cannot recei art and culture delivered like mass-produced, ready-made clothes in a department store" (Doc.Book I Page 155). If a poisoning of this youth is imputed to him here, he on the contrary asks (Doc.Book I Page 161) for comprehension in teaching on the part of everybody under whose protection young people are placed and he unequivocally rejects here any orders in the intellectual field.

With regard to any (form of) collectivism, as has already been mentioned, he impresses on youth the importance of comradeship, but emphasizes the personal element and the right to solitude / When on the ground of certain occurences many voices criticize the teaching body Rosenberg apprehends the growth of a general discrimination against the profession. He takes stand against this danger in two speeches. At a gre meeting in October 1934 at Leipzig, then at the session of the NS-Teacher's League at Bayreuth (Doc.Book I, Page 162), where he declar that the National-Socialist movement will step in and see that the teaching body be respected, just as it would have stepped in for all other professions.

By these brief allusions I mean to say that ROSENBERG, as a regulating and leading intellectual force, advocated high cultural values and the rights of the personality, in a manner rendered convincing by his attitude and motives. Throughout the whole Party i was no secret that this activity involved deep opposition to the Propaganda Minister. ROSENBERG considered it from the very beginning a calamity that culture and propaganda should be associated in one ministry. For him art was a faith, propaganda a form of the tactics of life.

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At first things could not be changed, Rosenberg emphasized his attitude to the outside world by not attending a single annual meeting of the Reich Chamber of Culture, in the firm hope that at some later day another conception would win through.

Many things Rosenberg said did not fail to have their effect and certainly prevented some wrong actions, but more, and probably the most important did not succeed because the legislative and executive powers in the State lay in quite different hands, and these finally, due to the war, and in spite of the will to sacrifice, brought about not the development of the National-Socialistic idea but the growth of its degeneration. Moreover, this happened to an extent which Rosenberg could not foresee.

It was seen that the foundations for the spiritual instruction of the party were not sufficient, and round about 1935 there grew up a wish to have a serious place for research and study. This desire led to the idea which was known as "High School" later on and which was intended to take the form of an academy. Rosenberg considered the creation of this academy as a task for his old age. Since it would have taken years to provide teaching materials, and to choose personalities, the Fuehrer authorized Rosenberg, at the end of January 1940, to carry on the preparatory work he had started on official orders. Thus, contrary to what the prosecution asserts, the "High School" had nothing to do with Rosenberg's "Einsatzstab" which was not even planned at that time (Prot.P.2266).

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The Moral Law as a Basis of the Indictment.

Mr. Justice Jackson, in his fundamental speech of 21 November 1945, has expressed the desire that this trial should appear to posterity as the fulfilment of the human passion for justice. Mr. Jackson has furthermore declared that he has brought the indictment because of conduct which according to its plan and intention meant injustice from the moral and the legal standpoint. In his report of 7 June 1945, Mr. Justice Jackson has outlined further, that in this trial those actions are to be punished which since time immemorial have been considered as crimes and are designated as such in any civilized legislation. The most difficult problem, the greatest task and the most tremendous responsibility for the Tribunal lies concentrated in this single point: What is justice in this trial?

We have no code of laws, we have, as astonishing it may sound, even no fixed moral concepts for the relations of nations to each other in peace and war. Therefore, the prosecution had to be satisfied with the general words: "civilized conception of justice", "traditional conception of legality", "conception of legality built on sound common sense with regard to justice"; they have spoken of "human and divine laws" (MOUNNIER on 7 February 1946, Transcr., Page 3901); the land warfare rules of the Hague refer in their preamble to the "laws of humanity" and to the "demands of the public conscience".

The basis of justice is without any doubt a morality, the moral law; thus if we wish to determine, what injustice among nations is, what is contrary to the idea of justice among nations according to international law, then we must open the question on morality.

One will answer: That is moral which the conscience designates to us as being moral.

But what is the original cause of moral discrimination: The desi and happiness of the individual, or the progress, the improvement, th preservation of the life of an individual, of a people, of humanity, or virtue, or duty?

How can I recognize what is good and what is bad? By intuition, or by experience, or by authoritarian and religious education? What is good and bad in the actions of a state, what is good and bad in the mutual relationship between states and nations? Does a difference exist between national morals and private morals? Can the state do any injustice at all? From SAINT AUGUSTINE, through MACCHIAVELLI and NIETZSCHE, to HEGEL, TOLSTOI and the pacifist thinkers, yearning humanity has received the most different answers to this question.

And furthermore: Have fixed moral laws existed since time immemorial or have changes in the ideals of nations brought about changes in morals, too? What is the situation with regard to this today?

I have already said once, that according to my opinion, war itself is a brutality and a great crime of humanity against itself and the laws of life. An essentially different question is, whether this conviction has already entered the conscience of humanity. We consider ourselves way above the moral level of other nations and ages, and are, for example, astonished, that the highest representatives of Greek morality, such as PLATO, ARISTOTLE, consider the exposure of children and slavery as absolutely right, or that in certain parts of East Africa today, only robbery and murder give a man the stamp of heroism; on the other hand it is absolutely compatible with our present-day idea of morality that human beings are killed by hundreds of thousands in war and that the products of human welfare and culture are wantonly destroyed. Neither in a moral nor in a legal sense is this considered as unjust.

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If the prosecution now charges the defendant with a wrong in the moral or legal sense, it is its duty to present the prerequisites for a punishment of the defendant for such a wrong, in such a way as to convince the court for, according to the hitherto existing moral concepts of nations, neither is killing in war a murder within the meaning of the penal codes of the individual countries nor have the measures of a sovereign country in war or in peace ever at all been interpreted as an offence within the meaning of these penal codes, or as punishable, immoral acts by the legal convictions of civilized humanity. Christianity teaches to return good for evil and to love one's enemy; this has been a world religion for 2000 years, but many today still laugh if one demands the principles for the relations of nations between each other. In the face of the yearning of humanity the prosecution at last wants to help progress, even if only step by step, in this direction, it seeks to achieve that "unmistakable rules" emerge from this trial; its mistake however, is that it wants to explain the "traditional opinions of justice" and the civil criminal laws as the contents of a public conscience which hardly exists any longer, and compliance with which cannot be demanded retroactively of the defendants.

It is certainly very true that a deep change is commencing today in the moral thinking of humanity, a new genesis of the moral law of nations, and that this trial before the High Tribunal constitutes a leap into this new era. However, it appears to me very doubtful whether it is just to hammer a new kind of justice into the conscience of mankind by making an example of the defendants.

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It is easy to speak of human and divine laws, or of the demands of public conscience, but we become greatly embarrassed if we are to answer the question: What is the substance and content of p r i v a morality, when is an act immoral according to private morality? In their anguish over what is good or evil, some rely on religion, other have been taught wisdom by experience and education, others still fin an explanation in the philosophers.

The s t a t e has in recent times taken on the moral education of its citizens in increasing measure, not only through criminal laws but also through "political education" or whatever other name is used for it. Not only does the National-Socialist state have a great advantage here over the liberal states, but so do all the totalitarian states of the world: They have hammered moral principles into the minds of their citizens which are of a private a n d public nature. They have proclaimed m o r a l u l t i m a t e v a l u e s, s u c a s f i d e l i t y, h o n o r, and o b e d i e n c e. By this means reflection concerning private and public morals is made easier for the individual citizens and they are obliged by force to uphold these ultimate values in the prescribed form. The German people, whic has become tired and resigned as a result of continual warlike disputes and religious upheavals, willingly followed National Socialism, even when the latter's ethics were exalted to a f a i t h; it made this leap into the unknown, not with the idea of being taught by this means to deceive people, to enslave them, to rob them, to kill them, to torture them (see MOUNNIER on 7 February 1946, transcript, page 3983), but because it asked for a moral elevation, an authoritative moral leadership in its material and spiritual distress, and because nothing else was offered to it, above all, not by a liberal world conscience which did not know now to make the Fundamental principle of humanity a reality.

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The national socialist ethical conceptions were taught to Germans as "summum bonum", as the highest idea, and they believed the idea to be moral and good. Then national socialism got into conflict not only with ideologies, but also with the means of power of other states, because it could not find the formula which would include not only the perfection and the life for Germany, but also the interests and justice for all nations of the world. Trying to construe out of such inadequacy of a national ethical idea, however inefficient, a punishable action, a conspiracy, is not acceptable in my opinion if only because uniformly acknowledged national morality has not yet developed, but the unlimited national egotism has not been dethroned so far and even today is still considered as the highest moral instance of the state.

One could object: You Germans should only have followed the teachings of your great philosopher Kant in thought and action, according to his "categorical imperative": Act in such way, that the maxim of your will could always serve as a principle for general legislation! Then you would and should have recognized the moral instability of national socialist teachings. To that I can answer with the words of the great English philosopher John Locke, who says the following as to what is good or evil: ("Essay concerning human understanding" Book II, ch. XXVIII, par. 6 f.)

"God has ordained it in such a manner, that certain activities produce general happiness, preserve society and even reward the doer. Man discovers that and establishes it as a practical rule. With that rule are connected certain rewards and punishments either by God Himself (Reward and punishment of infinite size and duration in the Beyond) or by mortals (legal penalties, social

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approval or condemnation, loss of honor), good and evil which are not the natural effects and results of the actions themselves. Then men point to those rules or laws, i.e., divine and made by the state, and the laws of custom or of private opinion,and measure their actions by them. They judge the moral value of their actions according to whether they conform with the rules or not. The moral good or evil is therefore only conforming or not conforming our action with a law, which by the will and power of the legislator determines for us what is good and evil.
Therefore good and evil has been/and still is today what the authorities want or do not want. Christianity for centuries has been preaching not only to Germans but to all nations of the world: "Everybody is a subject to the authority over him." And the authorities do not move beyond conscience and morality so long as the expansion of national egotism is not opposed by clear laws and commandments and irrefutable legal convictions.

The highest good (Summum bonum) in international morals of nations has not yet been mandatorily codified. There does not exist any authoritative idea for the community of nations. Instead of discussions on individual ethics and individual criminality, the prosecution should have submitted its accepted principles and criteria as international common law, which was not done.

Therefore, with regard to the standpoint of the prosecuting authorities as to the personal responsibility of the acting statesmen, I must put it down as a totally new philosophy and one which is very dangerous in its consequences.

Apart from the misdeeds of the individual, which do not satisfy even the minimum of moral conceptions, the ethical conceptions of national socialism and the actions resulting from them, in so far as they are an expression of the national socialist ethos, cannot be subjected to the judgment of a human forum, since they are an event of world history. And the "Fate and Guilt" of the defendant ROSENBERG likewise cannot be judged conclusively within the framework of this trial. As to the question of deciding the criminal guilt of the defendant, that is the heavy task of the High Tribunal but his potential historical guilt cannot and will not be judged by the tribunal. ROSENBERG like all persons of historical importance has acted according to his character and his pathos, thereby perhaps becoming guilty in the eyes of history. The more freedom of action a given personality has in his will, the clearer becomes the importance of conditions and the onesidedness of all human activities, and out of an insignificant guilt there grows, particularly in historical personalities, an enormous power, which decides the fate of many and which remains a gloomy foreboding when w lets it loose.

Goethe says once: "The doer never has a conscience, no one feels his conscience but the observer". But this maxim can never mean that a person is not to move and act to the best of his knowledge and conscience, and particularly for his country's sake. And we all know that in reality nobody is capable of attaining the good he is striving for. Just as his kn knowledge, so will his actions always be incomplete. Any action we accompli as free beings is an infringement on the operating forces of the universe, which we are never able to overlook.

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I will now sum up in conclusion and I would like to point out the following:

ROSENBERG was caught up in the destiny of his nation in a period of heav foreign political oppression and internal dissention. He struggled for cultural purity, social justice and national dignity and rejected all th movements prompted by passion which did not admit these high values or which consciously attacked them in an irreverent manner. With respect to foreign policy he stood for an agreement, especially between the four central powers of the European continent, under recognition of the heavy consequences of a lost war.

He acted in all loyalty and respect towards a personality, who gave a political shape and increasing power to his ideas.

After the political victory at home, ROSENBERG advocated the overcoming of the polemics and other aspects of the period of struggle. He stood for a c h i v a l r o u s s o l u t i o n of the existing Jewish problem, for a large scale spiritual-cultural instruction of the party, and, contrary to the statements of the prosecution, h e r e f u s a n y r e l i g i o u s p e r s e c u t i o n. He cannot be blamed fo emphasizing a definite religious-philosophical conviction of his own. The practical utilization of many of his views was accepted by authoritative agencies of the party but they were disregarded in a steadily increasing proportion, especially after the beginning of the war. Finall as has been discovered now, they were often turned into the opposite of what ROSENBERG fought for.

Until 17 July 1941 ROSENBERG was excluded from participation in any state legislation.

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Considered from the point of view of personal responsibility, all his speeches and writings come within the scope of unofficial journa istic activity which every politician and writer must admittedly be at freedom to engage in, a freedom which the Tribunal has fundamental acknowledged with regard to all utterances by the statesmen of all other countries during the unofficial period of their career. It see to have all the more importance that Rosenberg as a private man did not make any appeals in favor of a war or any inhumane or violent act

As Minister for the East he advocated a generous solution takin into consideration the comprehensible national and cultural aspirati of the Eastern European peoples. He fought for this conception as lo as it had some prospects. Ultimately realising that Hitler refused t be persuaded, he requested his dismissal. The fact that he could not prevent many outrages from happening in the East cannot be brought a a penal charge against him. Neither the Wehrmacht nor the Police nor the Labor conscription were subject to his authority. Whenever injus ices or excesses came to his knowledge, he did everything he could t counteract them.

For almost a whole year, Rosenberg endeavored to keep the labor recruiting on a voluntary basis. When several age classes were late called, he protested against every abuse by the executives and alway demanded redressing measures. Quite apart from the legitimate requir ements of the occupation power, his labor legislation for the Easter territories was necessary for the establishment of order and the repression of despotism as well as of dangerous idleness, growing sabotage and increasing murderous actions. It was wartime and it was a war area, not a post-armistice period or by any means a period sub sequent to a definite capitulation.

So far as he was informed of things and commanded any influence Rosenberg fought for his good conviction. The fact that adverse powe were stronger cannot be brought as a charge against him.

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One cannot punish offenses and at the same time punish those who revolted against them. With regard to the terrible extermination orders which have now been disclosed, it is certainly possible to raise the point whether ROSENBERG could not have exerted a much stronger opposition. Such a demand would, however, suppose an earlier knowledge of things which he only learned after the collapse. Should he be incriminated with any carelessness it must not be forgotten that he felt the duty of serving the German Reich and engaged in the struggle for its existence and that terrible injuries were also inflicted upon the German nation, injuries which ROSENBERG was unable to accept as war necessities.

The official orders, as for example the duties of the Operational Staff West and East, were carried out by ROSENBERG in preserving his personal integrity. The seizure of artistic and cultural goods he always carried out provisionally, subject to final decision of supreme headquarters and, as far as it was possible in any way, subject to agreement with the proprietor. Moreover, for the use of stray furniture for the benefit of air raid victims in Germany, provisions were made for the subsequent indemnification of the proprietors based upon a precise inventory.

Considered in his entire personality, ROSENBERG has followed his belief and love for an ideal of social justice allied to national dignity. He has fought for it openly and honourably, he has gone to prison and risked his life for it. He did not only step in when National Socialism afforded the opportunity to begin a career but at a time when it was dangerous and only cost the life of victims. In his speeches after 1933, he took his stand in favor of a deeper spiritual formation, a new cultural education, personality values and respect for every form of honest work. He accepted the sombre days of that time as unfortunate but inevitable accompanying phenomena of a revolution without bloodshed without having in fact been aware of the secret details.

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He fully believed that the better forces and ideas would prevail over these as well as other human imperfections. In the war, he was conscienciously at the service of the Reich.

For 25 years, he kept his personal integrity and untainted character throug the revolution and the events of the war. He had to experience with deep sorrow how a great idea in the hands of those possessed with the lust for power was gradually abused, and in 1944, at party reunions, he protested aga this abuse of the power entrusted to its holders. He had to see at the cour proceeding, to his disgust and horror, the evidence of the degeneration of his life ideal, but he knows that his aspirations and the aspirations of many millions of other Germans have been honorable and decent. Today indeed, he stands up for his honorable, honest and humanly irreproachable conduct and, full of sorrow for the wounds inflicted upon all nations and for the downfall of the Reich, he awaits the sentence of a just Tribunal.

We, Annemarie C. Catlin, Dorothy E. Plummer and J.B. Robinson, herewith certify that we are thoroughly conversant with the English and German languages; and that the above is a true and correct translation of Document.

ANNEMARIE C. CATLIN
X 046172

DOROTHY E. PLUMMER
Identification Card No.402 (USFET)

J.B. ROBINSON
X 046350

July 9, 1946.

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